

UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF MISSOURI  
EASTERN DIVISION

JAMES GARAVAGLIA, )  
)  
Plaintiff, )  
) Cause No.  
vs. ) 4:20-CV-1681-  
) CDP  
CITY OF ST. LOUIS, et al., )  
)  
Defendants. )

DEPOSITION OF DARLENE GREEN  
Taken on behalf of the Plaintiff  
February 17, 2022

Sheryl A. Pautler, RPR,

MO-CCR 871, IL-CSR 084-004585

(The proceedings began at 9:42 a.m.)



1 Is this document for the organization structure  
2 under a second deputy comptroller position?

3 A. This document -- this page is for the  
4 deputy comptroller.

5 Q. Are -- there is -- as of 2019, there was  
6 multiple deputy comptrollers; is that correct?

7 A. There was one deputy comptroller and then  
8 there was a deputy comptroller for the Finance &  
9 Development.

10 Q. All right. So are you saying --

11 A. What I'm saying -- I'm being very clear  
12 and succinct here.

13 Q. Okay.

14 A. And I'm being that way because of what  
15 you're -- to answer your question correctly. There  
16 was one deputy comptroller. And then there was a  
17 deputy comptroller for Finance & Development.

18 Q. Okay. Were those two positions equal  
19 level positions, the ones you just named?

20 A. Not in the same manner as I believe you're  
21 asking. If you can be clear, then I'll be clearer  
22 with you. Can you -- because there is function and  
23 there is personnel title and class. They were equal  
24 in personnel title and class, unequal in function.

25 Q. Unequal in function of terms of the level

1 they're at or in terms of their duties?

2 A. In terms of not only their duties but in  
3 terms of the charter responsibilities.

4 Q. Okay. Did either deputy comptroller or to  
5 be more clear the deputy comptroller versus the  
6 deputy comptroller of Finance & Development ever  
7 report to the other in any manner? And I mean in an  
8 organizational structure, supervisory, subordinate  
9 type role.

10 A. Both deputy comptrollers report to the  
11 comptroller.

12 Q. All right. Directly, correct? There's  
13 not any -- anything in between your position and  
14 their position?

15 A. Correct.

16 Q. All right.

17 A. But there is a status difference in terms  
18 of function in my office.

19 Q. Okay. What do you mean by that?

20 A. Per the charter.

21 Q. What is the difference?

22 A. The charter states that there shall be one  
23 deputy comptroller.

24 Q. Okay.

25 A. And that position on this Page 289 is that

1 deputy comptroller per charter.

2 Q. Understood. So what's the -- how does  
3 that impact their status in an organizational chart  
4 as far as being on the same level? And I mean as  
5 far as supervisor support. Does it at all?

6 A. Could you be more clear?

7 Q. Well, I mean, you've answered that they  
8 have a different level. And I'm trying to get at  
9 what you mean by that. Do you mean that in terms of  
10 their duties and roles or what the charter defines  
11 it or do you mean it specifically as in one is some  
12 way subordinate to the other?

13 A. One is in some way subordinate to the  
14 other.

15 Q. Okay. And what way is that?

16 A. Charter responsibility, charter  
17 definition, charter function.

18 Q. To your understanding, does the charter  
19 define the deputy comptroller of Finance &  
20 Development as subordinate to the deputy  
21 comptroller?

22 MR. NORWOOD: Let me object, because I  
23 think it may call for a legal interpretation of  
24 the charter. And it calls for a legal opinion  
25 on the part of this lay witness.

1 But subject to that objection to the  
2 extent you can try to answer, please feel free  
3 to try to do so.

4 A. The deputy comptroller for Finance &  
5 Development did not exist prior to my becoming the  
6 comptroller. The deputy comptroller as defined by  
7 charter existed. The charter states that there  
8 shall be additional deputies as added. This was an  
9 added deputy with a specific role, not to replace or  
10 usurp the charter's deputy comptroller as required  
11 by the charter.

12 Q. (By Mr. Schmitz) Okay. In your job as the  
13 comptroller, are you responsible for interpreting  
14 the charter in any way?

15 A. I believe I need to have a clear  
16 understanding of the charter in order -- as it  
17 relates to my job in order to carry out my job well.

18 Q. Do you believe you have a clear  
19 understanding?

20 A. I absolutely do.

21 Q. All right. So based on that clear  
22 understanding, in what way is the position of deputy  
23 comptroller of Finance & Development subordinate  
24 based on the language of the charter?

25 A. It is --

1                   It's subordinate in the way it was  
2                   defined by the comptroller at the time and the  
3                   comptroller at the time was me. The position was  
4                   created under my direction expressly for the duties  
5                   that would be subordinate duties of the deputy  
6                   comptroller of the office.

7                   Q.    Is this something that's been put into  
8                   writing what you just said at any point?

9                   A.    It was, a description of the position was  
10                  put in writing.

11                  Q.    Okay. Does that description include what  
12                  you just said, that it was intended to be a position  
13                  that was subordinate to the duties of the deputy  
14                  comptroller as listed in the charter?

15                  A.    Over the years when both positions  
16                  existed, the question has come up by deputy  
17                  comptroller at the time and deputy comptroller for  
18                  Finance & Development, and it became a question  
19                  asked and answered and understood.

20                  Q.    So my question was, the job description  
21                  you referred to, was what you just said included in  
22                  any of those documents?

23                  A.    In terms of it being a subordinate  
24                  position?

25                  Q.    Correct.

1 A. I don't recall.

2 Q. All right. Do you recall any document  
3 where that would be expressly stated?

4 A. I do.

5 Q. Okay. Can you tell me what those are?

6 A. It would have been in a memo. And it  
7 would have been between -- let's see -- the deputy  
8 comptroller -- it would have been in the early  
9 2000s. Deputy Comptroller Bozzo and Deputy  
10 Comptroller for Finance, Ivy Pinkston, at the time.  
11 There was a big question as to the responsibility,  
12 the level. And it was very clear and made clear  
13 that Deputy Comptroller Bozzo had the superior  
14 position.

15 The question came because the staff  
16 questioned. The staff needed to be clear as to who  
17 to listen to in all phases of the office. And it  
18 was the bottom line that Deputy Comptroller Bozzo  
19 was at the helm. And that was made clear.

20 Q. In this memo?

21 A. That I recall.

22 Q. All right. Did you write the memo?

23 A. I did not.

24 Q. Do you know who wrote the memo?

25 A. I do not.

1 Q. Were there any additional memos written  
2 subsequent to that?

3 A. Not that I recall.

4 Q. Would you say, then, that the deputy  
5 comptroller of Finance & Development actually takes  
6 direction from the deputy comptroller?

7 A. At times.

8 Q. Okay. What times would those be?

9 A. Because the office is a finance -- it's  
10 generally -- I said finance. But I mean it is  
11 largely an accounting office, the deputy comptroller  
12 for Finance & Development does not cross over into  
13 the duties of the accounting services. But must  
14 coordinate their activities in order that they may  
15 work together well in order to produce the work  
16 product that's necessary in order for them to  
17 operate their jobs.

18 That is critical, that they have an  
19 understanding of the functions and positions of each  
20 other's jobs so that they wouldn't get crossways  
21 with whose responsibility it is in terms of the  
22 different work activities that come through our  
23 office. That's very critical.

24 As the comptroller, I also have to  
25 have a very clear understanding of the functions of



1 the two deputies. Chiefly because they are the same  
2 class. Chiefly because it appears that they shall  
3 operate at the same level and have the same  
4 authority. And they do not.

5 That is expressly impart -- I have  
6 over the years been very clear and expressed to the  
7 best of my ability as controller, the importance of  
8 the separation of the duties of the two. As well as  
9 the importance of the two deputies working together.  
10 Extremely important.

11 We have had times where they would  
12 bump heads. But in the end, and for the best  
13 interest of the City, for the best interest of the  
14 office, they must work together.

15 Q. Are there -- so they have distinct  
16 functions, is what you're saying?

17 A. They have distinct functions.

18 Q. Does the deputy comptroller take direction  
19 from the deputy comptroller of Finance & Development  
20 when it comes to issues directly under the purview  
21 of the deputy comptroller of Finance & Development?

22 A. In some cases.

23 Q. So there are times, depending on what the  
24 issue is, where both would take direction from the  
25 other; is that your expectation?

1 Q. So my question, just to repeat it, and you  
2 answered with one of them: Are there any other  
3 actions that you as the appointing authority as it  
4 relates to discipline need approval from the  
5 director or the Department of Personnel?

6 MR. NORWOOD: Let me object. It calls for  
7 a legal conclusion with respect to the  
8 interpretation of Reg 117.

9 Subject to that, you can answer to the  
10 extent that you can.

11 A. I'm not aware of any other area of this  
12 regulation where I would need approval from the  
13 Director of Personnel.

14 Q. (By Mr. Schmitz) All right. These pages  
15 don't have Bates stamps. So I'm just going to ask  
16 you to go to Section VI, where it's marked forced  
17 leave. If you can let me know when you have that.

18 A. I have it.

19 Q. All right. Thank you. Have you ever  
20 placed anyone on forced leave or sought approval  
21 from the Director of Personnel to place somebody on  
22 forced leave?

23 A. Yes.

24 Q. Okay. Have you done it more than once?

25 A. Yes.

1           Q.    If you know, can you tell me approximately  
2   how many times that you've participated in this  
3   process?

4           A.    Two.

5           Q.    All right. Can you tell me who those  
6   individuals are?

7           A.    Yes.

8           MR. NORWOOD: Let me object to the extent  
9   that we're talking about personnel matters that  
10   involve nonparties in this case. I don't  
11   believe that -- well, actually I'm going to  
12   differ to the City counselor on the position  
13   about discussing the names of individuals who  
14   are not parties to this case, and discipline  
15   related to those individuals.

16          MR. BLANKE: Let me just point out for the  
17   record that there is a protective order in  
18   place which deals with this very thing in  
19   depositions. Where we want to make something  
20   subject to that protective order, there's a  
21   procedure to do so.

22          MS. HAMILTON: He's not yet asked for the  
23   names. That's why I didn't say anything yet.

24          MR. NORWOOD: I think he just did.

25          MR. SCHMITZ: I did.

1 MR. BLANKE: That's my understanding.

2 MS. HAMILTON: Either way.

3 MR. NORWOOD: So then can we have an  
4 agreement on the record, then, what we'll do is  
5 when we get the deposition transcript, we will  
6 designate the pages as confidential?

7 MR. BLANKE: Absolutely.

8 MR. NORWOOD: So the record is clear on  
9 what portions of that will be confidential.

10 MR. BLANKE: That's fine.

11 MR. NORWOOD: Subject to all of that,  
12 Madam Comptroller, to the extent you can answer  
13 that question, feel free to do so.

14 A. You want the name?

15 Q. (By Mr. Schmitz) Well, you identified two  
16 people. So those two --

17 A. Yes.

18 Q. -- subject to those objections.

19 A. Well, the first person was an African  
20 American female named Elaine Spearman.

21 MR. BLANKE: I'm sorry. Elaine?

22 THE WITNESS: Elain Spearman.

23 And the second one was Jim Garavaglia.

24 Q. (By Mr. Schmitz) Do you know approximately  
25 the time frame for Elaine Spearman subject to the

1 same objections?

2 A. April 20, 2016.

3 Q. All right. Are you familiar with the  
4 steps that need to be taken, then, in order to have  
5 some -- an employee placed on forced leave?

6 A. Yes.

7 Q. All right. And just to be clear, where do  
8 those -- the procedure and the steps for that come  
9 from?

10 A. From Regulation 117.

11 Q. All right. You already testified that the  
12 Director of Personnel must approve that, correct?

13 A. Yes.

14 Q. Do you know anything about what that  
15 employee's rights are after they've been placed on  
16 forced leave?

17 A. I believe there's a right to appeal.

18 Q. All right. And where does that appeal go?  
19 Who do they appeal to, the employee?

20 A. Civil Service Commission, I believe.

21 Q. All right. You have G ready. Thanks.

22 MR. BLANKE: Sorry.

23 MR. NORWOOD: That's all right.

24 MR. BLANKE: Your table is way too big for  
25 me.

1 A. Yes.

2 Q. Okay. What other documents would bind the  
3 City to your knowledge? I'm not asking for a legal  
4 conclusion. I'm asking based on your role as  
5 comptroller.

6 A. Lease agreements, financial closing  
7 documents, development closing documents. Those  
8 documents that are directing the comptroller to sign  
9 that have directed the comptroller to sign per  
10 ordinance.

11 Q. Do you make those determinations yourself  
12 or do you ever seek help in making that  
13 determination?

14 A. The documents that I have to sign that  
15 are, I will call, everyday documents such as  
16 contracts and leases are very clear as to the  
17 signature from the comptroller. It's very clear to  
18 me in terms of not having to seek a recommendation.  
19 It's also clear by the majority of the offices and  
20 department -- and particular department heads of the  
21 entire City of St. Louis as to the authority and the  
22 understanding of the authority -- signature  
23 authority in the City.

24 Q. And so just to reiterate my question, have  
25 you ever had to seek counsel --

1           A.     Yes, that would have been the second part  
2     of my question -- I mean my answer. You asked a  
3     compound question. And so I gave you the everyday  
4     situations for the contracts and leases where that  
5     is widely understood, not only by myself, as well as  
6     99 percent of all directors and all departments of  
7     the City. That the signature authority lies with  
8     the comptroller. In addition to that, when we have  
9     development documents. Other types of financial  
10    documents --

11           MS. HAMILTON: Madam Comptroller, to the  
12    extent that you have sought legal advice, you  
13    have answered that there are circumstances that  
14    you do. Otherwise, I will object that the  
15    advice and the circumstances under which you  
16    sought that advice are attorney-client  
17    privileged on behalf of the City of St. Louis.  
18    And as you are aware --

19           MR. SCHMITZ: Well, I'm not asking about  
20    the circumstances, and I don't plan to. So  
21    I'm -- especially not particular circumstances.  
22    Any questions I'm asking are general in nature.  
23    Not anything that relates to any specific  
24    instance at this point.

25           MS. HAMILTON: Even any general type of

1 THE WITNESS: Exactly.

2 MR. SCHMITZ: I'm not characterizing it in  
3 any way. I'm asking it as a question. I'm not  
4 stating it as what she just said. So I'd like  
5 the witness to clarify that rather than you.

6 MR. NORWOOD: I'm not clarifying. I'm  
7 making an objection for the record.

8 THE WITNESS: So you want me to clarify  
9 what I've sought and what I haven't sought?

10 Q. (By Mr. Schmitz) No. I'll ask it in a  
11 different way. In other words, leases and contracts  
12 are those -- you said that's generally understood as  
13 something that needed to be signed by the  
14 comptroller only; is that your testimony?

15 A. As per charter, responsibility of the  
16 comptroller, I understand that those documents that  
17 include leases, contracts that bind the City, I sign  
18 and without -- and generally without seeking  
19 additional advice. And that is because the charter  
20 provides.

21 Q. Okay. So just so that I'm not  
22 misunderstanding. Generally speaking you made that  
23 determination yourself?

24 A. Well, in my position as comptroller, and I  
25 want to be real clear that this is a job. This is



1 supervisors.

2 Q. All right. Do you know who was  
3 responsible for preparing and generating these  
4 rules?

5 A. Yes.

6 Q. All right. Who?

7 A. Elaine Spearman.

8 Q. Did she do that with your assistance?

9 A. No.

10 Q. How did she know what rules to have for  
11 the Office of the Comptroller?

12 A. As an employee and an attorney in the  
13 Office of the Comptroller gaining -- I believe she  
14 would have gained the knowledge of the personnel  
15 rules and would put this together to adhere to those  
16 rules that would be personnel rules when this  
17 document was prepared.

18 Q. Do you know when this document was  
19 prepared?

20 A. It says 1999.

21 Q. It does. And then do you see what it says  
22 on the front page below that?

23 A. Yes.

24 Q. What does it say?

25 A. Updated and reissued February 2010.

1 that position?

2 A. Could you be more clear?

3 Q. Well, I want you to say whatever is  
4 responsive to the question. So you know he was  
5 ultimately picked as the replacement deputy  
6 comptroller of Finance & Development, correct?

7 A. Correct.

8 Q. So what was your involvement, if any, in  
9 making that selection?

10 A. I reviewed the list of six people. And I  
11 remember interviewing the people, each of the  
12 people. And there was one individual who was in the  
13 finance industry at the time that I was interested  
14 in who I had actually spoken with prior to --  
15 actually spoken to and was among the people who were  
16 actively, I guess, looking at the position from the  
17 financing. In other words, an investment banker was  
18 on that list.

19 Q. Okay.

20 A. Investment banker was on that list. And  
21 that investment banker was very interested in the  
22 job.

23 Q. Do you recall who that individual was?

24 A. Ron Browning Smith.

25 Q. You said Ron Browning Smith?

1 A. Yes.

2 Q. Okay. And what happened with that? Did  
3 he -- you did not hire him obviously. So --

4 A. He was offered the job.

5 Q. Okay. Did he decline?

6 A. Yes.

7 Q. Do you know approximately how old he is?

8 A. Over 70. At the time, he was 70.

9 Q. Can you tell me, do you recall what race  
10 he is?

11 A. Black.

12 Q. All right. So after he declined the job,  
13 what did you do next?

14 A. I reviewed other candidates and reviewed  
15 my options. And eventually made a determination  
16 that I believe was in the best interest of the -- of  
17 the Office of the Comptroller to talk with Jim about  
18 considering accepting the job with making some  
19 changes.

20 Q. What changes are those?

21 A. The job that in its current form and as it  
22 was advertised would be changed to have less duties  
23 than would be there for the finance functions. And  
24 the reason for that was since he was an asset  
25 manager, that he would also maintain his duties as

1 asset manager. And I needed to know if he was  
2 accepting of that type of arrangement prior to  
3 accepting the position.

4 Q. Okay. So the duties of the asset manager  
5 were not one that Ivy Pinkston --

6 A. That is correct.

7 Q. All right.

8 A. My reason for that was because Ivy  
9 Pinkston did not ever have Jim involved in the  
10 business of Finance & Development while she was  
11 deputy comptroller. I was very observant of that.  
12 I understood that Jim did not have the skills  
13 required to be in the position, even though he had  
14 worked under her as asset manager.

15 He had never interacted with bankers,  
16 investment bankers, and the attorneys that were bond  
17 attorneys, and those professionals that worked in  
18 the area while Ivy Pinkston was the deputy  
19 comptroller for Finance & Development. Jim was not  
20 assigned in that area at all.

21 I was observant of that, because she  
22 did come down with an illness. I was observant of  
23 who she would put in charge of certain areas that  
24 she was -- had charge over. Candace Gorden, Ryan  
25 Coleman, Eunetter Steele, became those individuals

1 that I as the comptroller rely on for all of the  
2 business of Finance & Development while Ivy Pinkston  
3 was the deputy comptroller --

4 Q. Okay.

5 A. -- of Finance & Development. Jim was  
6 fully in his role and very active as the asset  
7 manager and all the duties that was under him. But  
8 none of them crossed over into the Finance &  
9 Development area.

10 Q. So when he became the deputy comptroller,  
11 did those people continue to perform those duties?

12 A. Candace Gorden retired. She was the top  
13 person under -- the top assistant under Ivy  
14 Pinkston. And she retired.

15 Q. So who performed those duties after that?

16 A. Eunetter Steele was --

17 Q. Before you jump to that, I want to make  
18 sure we don't get too confused. Candace --

19 A. Retired.

20 Q. -- she retired, who took on those duties?

21 A. I did.

22 Q. So that was not something that fell under  
23 Jim?

24 A. It did not.

25 Q. All right. And then you were mentioning

1 somebody else?

2 A. Ryan Coleman.

3 Q. I think you said Eunetter?

4 A. Eunetter Steele.

5 Q. Did she remain in her position --

6 A. Yes.

7 Q. -- after Jim got promoted?

8 Okay. Who did she report to?

9 A. I do not recall, because I don't know if  
10 Jim would -- accepted her as an employee or if she  
11 reported to someone else. I do not recall that.  
12 She was the direct assistant -- administrative  
13 assistant to Ivy Pinkston.

14 What I know for sure is that the  
15 protocols that was established for that work  
16 progress for Finance & Development was no longer  
17 followed. Eunetter Steele had developed the work  
18 protocol with the leadership of Ivy Pinkston. After  
19 Jim took the position, those protocols fell apart.

20 Q. Can you elaborate on that?

21 A. Eunetter Steele remained in her position  
22 after the passing of Ivy Pinkston, and made herself  
23 available to assist, to train, and help in any way  
24 whatsoever for the new deputy comptroller for  
25 development, which was Jim Garavaglia. I was told

1 and observed that those protocols were not followed.  
2 Those were instructions of my office from me, the  
3 comptroller, to have those well-oiled procedures and  
4 policies to be continued. And they were not  
5 followed.

6 Q. Who told you that?

7 A. I observed --

8 Q. I know you said that. Who told you that.  
9 You said somebody told you?

10 A. I didn't say that. I said I observed.

11 Q. You said I was told -- could you read the  
12 record back just to be clear?

13 THE COURT REPORTER: Answer: Eunetter  
14 Steele remained in her position after the  
15 passing of Ivy Pinkston, and made herself  
16 available to assist, to train, and help in any  
17 way whatsoever for the new deputy comptroller  
18 for development, which was Jim Garavaglia. I  
19 was told and observed that those protocols were  
20 not followed. Those were instructions of my  
21 office from me, the comptroller, to have those  
22 well-oiled procedures and policies to be  
23 continued. And they were not followed.

24 A. I was told by Eunetter Steele and by my  
25 assistant, Chana Morton.

1 Q. (By Mr. Schmitz) Was that something that  
2 Chana Morton -- it was part of her job expectation?

3 A. Absolutely.

4 Q. Okay. So just to be clear, your  
5 administrative assistant, one of her job roles is to  
6 observe the practices of the deputy comptroller and  
7 the deputy comptroller for Finance & Development?

8 A. One of her roles is to make sure that the  
9 comptroller's instructions that she is well aware of  
10 and understands is adhered to when it comes to  
11 receiving documentation on behalf of me, the  
12 comptroller. She understood the well-oiled system  
13 because it existed from the beginning of the  
14 creation of the position itself.

15 It was not rocket science. We were  
16 handling and managing very important financial  
17 documents that had not, before the position,  
18 occurred as regularly as it was occurring during my  
19 administration.

20 Q. When did you become aware of this? You  
21 said you observed it and you were told by two  
22 individuals.

23 A. Mishaps occurred.

24 Q. No. My question is when.

25 A. Mishaps occurred when Jim Garavaglia, when



1 he was --

2 Q. When did you become aware of it?

3 A. I became aware immediately upon Jim  
4 Garavaglia's handling of documentation that was  
5 Finance & Development that was mishandled. In other  
6 words, the handling of the documents was no longer  
7 the same as had been before he took the position.  
8 So that was an immediate.

9 Q. Okay. So --

10 A. It was immediate. And I -- not only was I  
11 observing it, but I asked a question about it  
12 because I needed to know who and why. It was that  
13 important to know. I did not want to jump to a  
14 conclusion and say that it was somebody when it was  
15 not. But I needed to know. So the observation was  
16 immediate.

17 Q. Okay. So what steps did you take in  
18 response?

19 A. I asked questions.

20 Q. To whom?

21 A. Eunetter Steele, Chana Morton, Jim  
22 Garavaglia.

23 Q. And then what?

24 A. I was given answers.

25 Q. And then what?

1           A.     And then I had to observe the next go  
2     around to see if there were corrections made based  
3     on instructions that I had given after having the  
4     discussions about the process and how the process  
5     should go.   And this is a process about making sure  
6     that there's a circulation of the documents which  
7     was efficient and in order to make sure that we are  
8     meeting deadlines.

9                     Whenever there's a financing, there's  
10    deadlines that are in place.   Elected officials are  
11    not always going to be at their desk, the major, the  
12    comptroller, the treasurer and other signers of  
13    public officials that were supposed to sign the  
14    documents, were not necessarily going to all be in  
15    one place during the time the documents were  
16    approaching for signature.   And the deadlines were  
17    in stone; not the individuals.

18           Q.     Okay.   Before we talk about the process at  
19    length --

20           A.     You're cutting me off, sir.   I would like  
21    to finish and it won't take long.   And it's very  
22    important.

23           Q.     Go ahead.

24           A.     Like I said, the deadline was in stone,  
25    but not the individuals.   So what was in place was

1 for the secretaries of -- and assistants, the  
2 assistants for each elected official and other  
3 officials who were going to sign the documents to  
4 find out where those individuals would be and to  
5 inform them that there were some important documents  
6 that were going to be coming within a certain time  
7 period or window. And then they would arrange among  
8 themselves when to get the documents to those  
9 individuals so that the deadlines which were very  
10 important could be met without question.

11 Over a couple of decades, that worked  
12 perfect. Then all of a sudden, I observed a  
13 dismantling of that system, a well-oiled system that  
14 seemed to just stop working. And while Eunetter  
15 Steele was still present, I couldn't understand. So  
16 maybe there's something that I'm not understanding.  
17 So I kept going back, giving the instruction, to  
18 make sure you follow direction. And then those  
19 directions were not followed by Jim.

20 Q. And you've documented this?

21 A. I did.

22 Q. Over the course of his time as the deputy  
23 comptroller?

24 A. Yes.

25 Q. Okay. Where is that documentation?

1           A.     The documentation would be in the form of  
2     a narrative given to an attorney which I believe you  
3     also have the narrative.

4           Q.     Was it -- okay. You are referring to  
5     documentation in July of 2019?

6           A.     It follows --

7           Q.     Was there any documentation prior to that?

8           A.     I believe so. But I can't recall  
9     specifically at this time. But I believe so.

10          Q.     Okay. How long was Jim the deputy  
11     comptroller?

12          A.     From, I believe, June -- May or June of  
13     2016, until he retired in 2019.

14          Q.     So in those three years before he was  
15     placed on forced leave, what was done in response to  
16     what you just articulated you observed and were also  
17     told by two different individuals?

18          A.     Well, let me give you an example. I got a  
19     call from Joyce Opinsky, who's a banker with Stern  
20     Brothers, the morning of a closing of a financing.  
21     She was alarmed. It was in the morning. I was on  
22     the way to a doctor's appointment. Joyce Opinsky  
23     said: If you don't mind, Comptroller, I need your  
24     signature.

25                     I was in shock. I said: Joyce.

1                   She says: Comptroller, whatever you  
2                   do, I need your signature by noon.

3                   I said: But Jim -- and I remembered  
4                   this so well because her office was in Clayton and I  
5                   was driving to my doctor's appointment at the time.  
6                   I said: Joyce, no worries. I'll swing by your  
7                   office.

8                   I'll come down the elevator. I'll  
9                   meet you in the lobby.

10                  I went to Stern Brothers. I signed  
11                  the document. And Joyce and I spoke about how this  
12                  is happening, how this is happening, and how this  
13                  had to happen.

14                  She says: I don't care about what  
15                  you guys got to do. In order to sell these bonds, I  
16                  need your signature. Thank you so much.

17                  I went to my doctor's appointment. I  
18                  didn't hear from Jim that day. But what I heard  
19                  from others in the office is that Jim was surprised  
20                  that the document was signed. That was the first  
21                  time I observed that I'm aware --

22                  Q. Did you speak to Jim about this?

23                  A. I did not. Jim did not call me. He's my  
24                  subordinate.

25                  Q. Did you seek to talk to him about it?

1           A.    I probably was more concerned with my  
2 health on that day that I had just come from the  
3 doctor.

4           Q.    Did you follow up?

5           A.    I did not follow up until later on in the  
6 weeks. Because certainly there were other documents  
7 that were circulating. And, yes, I pulled Jim into  
8 the office for a conference and a consultation on  
9 matters that had to do with signing documents and  
10 circulating them. I did that multiple times.

11                       Not only was it Jim and his  
12 secretary, it was also Jim's secretary and Eunetter  
13 in my office to have consultation on circulation of  
14 the documents and the understanding of such in terms  
15 of the importance of how you get the documents  
16 circulated properly to let the elected officials  
17 know that you'll meet them at a certain time and  
18 place to sign documents, instead of having an  
19 investment banker to call you while you're on the  
20 way to the doctor.

21           Q.    So when was this?

22           A.    This was early on in Jim's tenure as  
23 deputy comptroller. He began June of -- or June of  
24 2016. So it was either the 2016 or 2017 year. It  
25 was early. It was early enough to alarm me that I

1 had to have a call from an investment banker to ask  
2 for my signature instead of my subordinate who was  
3 Jim Garavaglia, who should have called me or my  
4 assistant to find out where I would be to sign a  
5 document so it could be in time for the closing.

6 That's millions of dollars of City  
7 taxpayer's dollars that we're talking about here.  
8 And I had given strict instructions on how, that  
9 these procedures for signature should happen. And  
10 Jim did not follow them.

11 Q. Where are these procedures? What document  
12 are they contained in?

13 A. These procedures come from the comptroller  
14 verbally.

15 Q. Did you ever memorialize any of these  
16 strict detailed instructions?

17 A. Yes. Eunetter Steele did that.

18 Q. Where are they?

19 A. I don't -- there was a fold -- there's a  
20 thick book in the Office of the Comptroller which  
21 was shared with Jim's secretary, from Eunetter  
22 Steele to Jim's secretary. And it happened in my  
23 office. I was sitting right there. I said:  
24 Sheila, are you going to do this work here that  
25 it -- it says this is how you circulate these. Are

1           A.     My testimony is the document was made  
2     available by Eunetter Steele to help and assist in  
3     any way she could, Jim Garavaglia, the secretary to  
4     Jim Garavaglia, any assistant to Jim Garavaglia to  
5     get the job done. That's my testimony.

6           Q.     Okay. So this document was created. You  
7     were aware of it. You are saying that Jim was  
8     provided with it. Was expected to follow it but  
9     didn't right out of the gate and continuously  
10    throughout his employment. Did you not follow up  
11    with him? Did you not take any type of disciplinary  
12    action?

13          A.     I followed up with him, yes, and I  
14    followed up with him regularly.

15          Q.     In what way?

16          A.     I gave Jim verbal reprimands regularly.

17          Q.     Did you ever put that in an e-mail?  
18    Anything related to this issue and his noncompliance  
19    with your expectation get memorialized in writing?

20          A.     I'm not sure.

21          Q.     So you're unaware if it did or didn't?

22          A.     I am unsure that I memorialized it in  
23    writing on this particular issue, I am unsure. But  
24    I'm very sure that I gave direct instructions to Jim  
25    on how to circulate documents. And I'm very sure



1 that he did not ever follow those instructions as I  
2 had given them to him. And it was very troubling to  
3 me that he couldn't do that, because I did take the  
4 time and the steps to continuously speak to him and  
5 also monitor and also speak to other professionals.

6 Q. Then there were witnesses to all these  
7 conversations?

8 A. There was not direct witnesses to when I  
9 spoke to Jim. But there are people that I spoke to  
10 about the problem.

11 Q. Okay. Who would those be?

12 A. Well, I spoke to -- one of the persons  
13 that I spoke to was the financial advisor. I  
14 mentioned very casually that I was experiencing an  
15 issue. And her response was very short. And I  
16 decided that I needed to be more vigilant in my  
17 observation so that I would not miss or misinterpret  
18 or misunderstand whether there was a  
19 misunderstanding on Jim's part or his staff.

20 Q. Okay. And what determinations did you  
21 make?

22 A. I determined that after I had given Jim  
23 Garavaglia a directive and direct instructions, that  
24 not only did he not follow them, was that he was not  
25 going to follow them, is what I determined.

1 Q. When did you make this determination?

2 A. I made that determination after the fiasco  
3 that happened with the documents with the real  
4 estate closing of Vertical Realty. I knew then with  
5 that fiasco that Jim was never going to follow the  
6 directive and protocol and procedure to circulate  
7 the documents in a professional manner, in a proper  
8 manner, so that they could be signed and a deadline  
9 could be met properly.

10 Q. All right. So describe this process to  
11 me. What -- give me the detailed description of  
12 exactly what should have been done and what should  
13 be done in each one of these cases?

14 A. We have financial closings that involve  
15 investment bankers. But you also have financial  
16 closings or extensions or development deals. You  
17 have all of those kinds of dealings. Each of those  
18 kinds of deals, you have different protocols. But  
19 the bottom line is you have different persons who  
20 need to be available to sign the documents. And the  
21 job is to act in a sense of urgency to meet the  
22 deadlines on behalf of those who are developers, who  
23 are expecting that their project shall be closed on  
24 time. And on behalf of the City of St. Louis who's  
25 the issuer of the bonds in most cases.

1 City of St. Louis Airport is an  
2 example. Water department, another example.  
3 Parking division, another example when it comes to  
4 issuing bonds and expecting to adhere to deadlines  
5 and meeting those deadlines. Because again, those  
6 are hard deadlines. The people who have to sign the  
7 documents are not.

8 Q. How many of those deadlines were missed  
9 during Jim's tenure?

10 A. During Jim's tenure, the deadlines were --  
11 that were there for each of those were not all met  
12 because of Jim. Because Jim --

13 Q. Is this documented?

14 A. Yes, it is.

15 Q. So there's sales that --

16 A. Yes, it is. For example, Vertical Real  
17 Estate's closing, that deadline was met without Jim.

18 Q. So it was met?

19 A. It was met because I'm observing and I  
20 took a special role to observe once I found out that  
21 Jim was not handling the documents properly.

22 Q. So my question was, how many deadlines  
23 were not met?

24 A. I heard your question. And I gave you an  
25 answer.

1 don't agree with you, but it's on the record.

2 Q. (By Mr. Schmitz) Now, how many times were  
3 deadlines not met? One? Two? Five?

4 A. There were no deadlines not met, but it  
5 was because of the Comptroller, Darlene Green, who  
6 is sitting here answering these questions to you and  
7 the staff of the comptroller put in place a  
8 procedure and a process to make sure deadlines are  
9 met. It is our job to do the right thing in the  
10 Office of the Comptroller to protect the integrity  
11 of the office, is what we were doing.

12 Q. Well, I mean you're laying all the blame  
13 at the feet of Jim. So my question is, how many of  
14 these bonds were effected negatively and you've  
15 answered my questions. Now, how many bond sales  
16 were successfully completed during Jim's time as  
17 comptroller? Did you look at that?

18 A. Is that a question?

19 Q. It is, yes.

20 A. Did I look at it?

21 Q. Do you know the answer?

22 A. Do I know the answer to what?

23 Q. Do you know the answer?

24 A. The answer to whether I looked at  
25 something or the answer to how many bond deals

1 and Jim was present along with other members of the  
2 staff. There were just multiple meetings.

3 Q. Okay.

4 A. It was pretty common.

5 Q. So I'm going to go back near the very  
6 beginning. Do you ever recall talking to him about  
7 his future in that job?

8 A. Yes.

9 Q. Did you talk to him about how long he  
10 intended to work?

11 A. I wanted him to stay there as long as  
12 possible. That's my MO, modus of operandi. If I'm  
13 working, I want you to be working. I want you  
14 working with me. I want you working alongside me.  
15 I want you to be a partner in the job of working in  
16 the Office of the Comptroller.

17 I am very well-known to have been a  
18 person that promotes from within. And am very  
19 hopeful that the people who work for me want to work  
20 for me forever. Because I like to train, help  
21 educate, I want to see people do well. I want to  
22 see people that work for me to do well. And I've  
23 shown it in my practice. When I promote you, I have  
24 elevated you to a place of responsibility along with  
25 more salary. Not only to help you but help your

1 family.

2 Because you have chosen to work in  
3 the Office of the Comptroller, I believe in giving a  
4 benefit for that. I believe that is something that  
5 will help the individual employee enjoy the job even  
6 that much more. So that they would want to continue  
7 on working for the Office of the Comptroller.

8 Because there was a lot of times that  
9 employees didn't get raises. But if they got a  
10 promotion, then a raise came with that. That I  
11 would hope that that would cause them to want to  
12 have a loyalty to the Office of the Comptroller and  
13 to work in the Office of the Comptroller. Because  
14 the Office of the Comptroller in the City of  
15 St. Louis was an office that I felt, I guess -- we  
16 did a lot of good for the community. I really  
17 believe that.

18 We were complimented a lot in terms  
19 of how we served the public, especially during times  
20 when the public would call, ask for services. And  
21 instead of us saying, sorry, you got the wrong  
22 office, we'd say wait one moment. We will direct  
23 you to the people that you need to talk to. And we  
24 were happy to have that reputation. And I was happy  
25 to have an employee that would want to stay with the

1 Office of the Comptroller. That had experience and  
2 that had worked in the community, that had family  
3 ties in the community. It was very important.

4 Q. Did you ever talk to him about retirement  
5 in the beginning?

6 A. I talked to him about retirement hoping  
7 that he would not retire, is what I would most  
8 definitely have said to him as well as employees  
9 that worked for me. I hope you wouldn't retire  
10 because we need you, want you, in the job.

11 Q. Do you -- did you talk to him by phone or  
12 in person when you --

13 A. In person.

14 Q. No. When you offered him the job?

15 A. I'm not sure if it was by phone or in  
16 person when I offered him the job. I don't know. I  
17 just can't recall right now.

18 Q. Do you recall ever asking him if he was or  
19 stating to him that he would be going out on top?

20 A. Well, in the most complimentary way I did.  
21 I was so happy that he was now making a lot more  
22 money than he would have been making had he not been  
23 promoted to the job. So that being the top job in  
24 the office, I was ecstatic for him. And I expressed  
25 that to him.

1                   Because now instead of having an  
2     Asset Manager II salary to retire on whenever he  
3     chose to do that, he would retire at the top  
4     position that he could have in the Office of the  
5     Comptroller. And by God, I was wanting to  
6     congratulate him on that. Because I was happy about  
7     it. And I would hope that he would be happy about  
8     it.

9           Q.     Do you know if anybody else was a witness  
10    to that conversation?

11          A.     I'm not sure.

12          Q.     Okay. You don't recall?

13          A.     No, I don't recall.

14          Q.     And did you ever think about if Jim  
15    retired or was no longer in that position, who his  
16    replacement might be?

17          A.     Yes. I did think about that.

18          Q.     Okay. Did you have any thoughts or plans?

19          A.     Well, I thought about it in terms of the  
20    asset manager portion of it, is that what you're  
21    asking, or are you asking about the deputy  
22    comptroller?

23          Q.     Well, I'm asking if you ever thought about  
24    who might replace him.

25          A.     While he was in the position?



1 Q. Yes.

2 A. No.

3 Q. I know we talked about after he was in the  
4 position, you guys met. And I'm not going to repeat  
5 and get into that again. But I do want to ask about  
6 a meeting that may have been around March or April  
7 of 2019 between you and Bev Fitzsimmons. I don't  
8 know if that's enough information to help you to  
9 know if that meeting happened or not or if you  
10 recall. But I'll ask that now.

11 Do you recall based on that  
12 information, a meeting in or around March,  
13 April '19 regarding your running for reelection?

14 A. No, I do not recall.

15 Q. Okay. Do you recall any specifics of any  
16 conversation you had with Jim where you may have  
17 asked him if he intended to retire and when?

18 A. In the same year or could you --

19 Q. During any point.

20 A. I would have had a conversation with Jim  
21 and my other deputy comptroller as to whether they  
22 would be in my office working for me as long as I  
23 was the comptroller. That would have been the  
24 conversation that I would have and have had in the  
25 past with deputy comptrollers of the comptroller

1 since I had the job. Because every four years, I  
2 would not know whether I had a job.

3 But I did know that as a civil  
4 servant, the employees that work for me, they would  
5 have a job. So I wanted to know if they were still  
6 wanting to be there working for me in the Office of  
7 the Comptroller. So that would have been the  
8 question that I would have had.

9 Q. So you used the words "would have." Do  
10 you have any specific recollection of any particular  
11 meetings where you recall having that actual  
12 conversation?

13 A. I would have made the statement similar to  
14 or in the context of hope -- that I would hope that  
15 they were not going to retire if I'm planning to run  
16 for reelection. Running for reelection never  
17 guaranteed whether I was going to be elected or not.  
18 And a high-level employee would be in jeopardy when  
19 or if I was not elected. I was clear about that.

20 I was very protective of my  
21 employees. So I didn't want to put any jeopardy in  
22 their way if I plan to just not run for reelection.  
23 So I'm saying it was like kind of a team, a work  
24 team, if you will.

25 Q. Do you recall actually having that

1 conversation, though, specifically?

2 A. With Beverly and with Jim at some point.

3 I met with them both --

4 Q. So you did --

5 A. -- to let them know. This was June 11,  
6 2019 in the 1520 building, the same day that there  
7 was a special E&A meeting scheduled. And I asked  
8 for a meeting with Beverly and I asked Jim to join  
9 me on that day. To instead of going to the E&A  
10 meeting, which was June 11, 2019, I would be absent  
11 and I asked that my staff be absent. And in lieu of  
12 going to the E&A meeting, we would meet and just  
13 talk. And that was June 11, 2019. And we talked  
14 about several issues.

15 One of the first ones was whether or  
16 not any of us had heard from the airport or the  
17 airlines regarding the issue of the airline or  
18 airport financing. Because that was the issue that  
19 the mayor wanted the special meeting about, to vote.  
20 And the airlines -- I had understood as I was going  
21 into that meeting, I just heard that the airlines  
22 had threatened to come or show up if there was such  
23 a meeting to be held.

24 So I thought it would be best to be  
25 outside of city hall and nowhere near just in case

1     there were some issues of press. Later after that  
2     meeting, we learned that the airlines had sent the  
3     mayor a letter at noon on that day letting her  
4     specifically what she needed to do with regard to  
5     that airport financing and what their purpose was.  
6     They said they prefer the comptroller's financing to  
7     whatever she was proposing. And that if there was  
8     such a vote that would go awry of that, that she  
9     would hear from them. And that letter came from the  
10    American Airline and Southwest Airline.

11                 So that day was a very memorable day  
12    because of that issue. And I know who I was with.  
13    I was with those -- and as a matter of fact, the  
14    meeting was at 2:00 at the same time the scheduled  
15    E&A meeting was.

16            Q.     And did this meeting include discussions  
17    about their future plans?

18            A.     It included conversations about whether or  
19    not -- in addition to the conversation, which a  
20    large part of the conversation had to do with the  
21    airport, and the other part had to do with whether  
22    or not they were wanting to be in the comptroller's  
23    office, that was what that was about. And I  
24    remember asking if they had any concerns. Do you  
25    have any concerns?

1 I remember asking about Jim's  
2 secretary Sheila, because there had been some  
3 problems which was discussed about the circulation  
4 of documents, which I was led to believe she was the  
5 problem with that. So I made a point to ask him  
6 face-to-face about Sheila, was she okay, was she  
7 going to be okay following the instructions. I made  
8 the point to talk about whatever it is that they had  
9 asked me. That Beverly had asked. She was present.  
10 You know, the three of us was present in the  
11 conference room. I believe we stayed for an hour or  
12 less in the meeting.

13 Q. Okay. Did you ever give Jim any service  
14 ratings?

15 A. I did not, except for when I had to by --  
16 I believe to his working test period.

17 Q. Okay. Any particular reason why not?

18 A. Because I don't give ratings generally to  
19 any of my employees.

20 Q. You say generally, is --

21 A. Generally unless they ask for it and force  
22 me.

23 Q. Did you give ratings to Bev?

24 A. For her working test period, I believe I  
25 did.

1 that.

2 If you know, whose decision was it to  
3 have him immediately escorted off the premises  
4 without even an opportunity to get his personal  
5 items?

6 A. I don't know if that was a decision made  
7 that was -- I don't know or not. But what I know is  
8 that Judy Armstrong is the appointing authority for  
9 personnel. And that she had the authority to set a  
10 process in place for managing all personnel actions.

11 Q. Were you aware this was going to happen  
12 when he was presented with this forced leave?

13 A. I was aware that he would be presented  
14 with the information. I was aware of that, yes.

15 Q. Okay. What about being escorted out, not  
16 being allowed to take personal items, that sort of  
17 thing?

18 A. I don't know if I was aware at the time, I  
19 don't know.

20 Q. Why did you decide to place him on forced  
21 leave instead of issue a pretermination notice?

22 A. I had a couple of weeks of disturbing  
23 incidents. One being at the E&A meeting. The  
24 second being the second week, the Wednesday before  
25 the Vertical Realty documents needed to be signed,

1 which was that Friday they needed to be signed, but  
2 on that Wednesday, I got an e-mail from Tom Ray,  
3 outside attorney who warned our office that there  
4 would be trouble he believed, because he learned  
5 that Jim Garavaglia had put the documents in the  
6 interoffice mail.

7 So in that e-mail, I discerned that  
8 the attorney was trying to protect the integrity of  
9 the office with a warning about the documents. And  
10 so I took steps. I was reminded of what had  
11 happened the week before. And I said, okay, here we  
12 are. Week two, let's get a plan together so that we  
13 can have a smooth landing.

14 And so I took it upon myself to ask  
15 my secretary to set up a conference call. Tom Ray,  
16 I said, place him on the conference call with the  
17 secretary of the mayor, which was Sherry  
18 Wibbenmeyer, myself, my secretary, and  
19 Jim Garavaglia. Those five people on the call.

20 Q. What date was this?

21 A. This was Wednesday, June 26. And it was  
22 roughly around 4:00, a little after 4:00. We had  
23 been given -- the e-mail had been received after  
24 2:00 from Tom Ray, outside counsel, warning my  
25 office about pending trouble because documents had

1     been placed in interoffice mail. In that e-mail,  
2     Tom Ray stated that Jim should not have asked  
3     Sherry, the secretary, to place the documents in the  
4     interoffice mail.

5           Q.     Is Tom Ray familiar with the circulation  
6     process for the City?

7           A.     He's extremely familiar with them. He's  
8     worked over 30 years plus on finances and anything  
9     and everything to do with the Office of the  
10    Comptroller. He was a former City counselor. And  
11    his job was to be counsel to the Office of the  
12    Comptroller. And subsequent to that, he joined the  
13    law firm of Armstrong Teasdale and continued to work  
14    on financial matters for the Office of the  
15    Comptroller.

16                   So he was familiar with the  
17    operations that had been put in place by Eunetter  
18    Steele about circulating documents. And he had the  
19    acute understanding that the secretaries had to make  
20    sure that their bosses were in a place to sign the  
21    documents. As a matter of fact, that e-mail was  
22    sent to Chana Morton because of his acute knowledge  
23    of how the circulation process worked.

24                   Of course he would sound the alarm  
25    when he found out that the documents had been placed



1 in interoffice mail, because he probably never heard  
2 of such. And he stated in that e-mail that Jim  
3 should have never put those documents in the  
4 interoffice mail. These were important real estate  
5 documents. As a matter of fact, they were down the  
6 hall at the mayor's office. And the format that Tom  
7 Ray was used to, one or the other secretary would  
8 walk the documents down. If Sherry was busy, then  
9 my secretary would walk down the hall and get the  
10 documents and have them ready for review.

11 So that's the common practice that  
12 Tom Ray was used to. And he also stated those very  
13 words in his e-mail. He said: Sherry should have  
14 walked the documents down.

15 So in answer to your question, why  
16 did I consider a forced leave instead of immediate  
17 disciplinary action, is because I needed to think  
18 about what the disciplinary action should look like.

19 Q. What do you mean by that, you needed to  
20 see what the disciplinary action would look like?

21 A. I wasn't clear. Jim was a valued employee  
22 I had. Jim had many years in the Office of the  
23 Comptroller. I said, no way I'm going to fire this  
24 dude. I said, I'm going to look at this. I'm going  
25 to see what we need to do here. So I called up and

1 had a discussion with the Director of Personnel and  
2 explained the problem that I had, and gave him in  
3 detail. And he told me, he said: Well, Jim's a  
4 high level employee of yours. We have forced leave  
5 to deal with employees like that. Then you can make  
6 your decision.

7 I said: Well, you know, you're  
8 right. So I chose to look at forced leave that  
9 would give me at least ten to 14 days to make a  
10 decision that was fair to Jim.

11 Q. Did you want --

12 A. I wanted to make a fair -- if you want me  
13 to finish, I will.

14 Q. Go ahead.

15 A. I wanted to make a fair decision.  
16 Something that was fair to Jim. I didn't want to  
17 make a decision that was hasty. I wanted time to  
18 think, because these were serious matters. I wanted  
19 to know Jim understood how serious this was. This  
20 is City money. This is a project that we had been  
21 working tirelessly on for many, many years. And we  
22 finally got it to a place where these guys were  
23 going to get this hotel built. And we've got one  
24 more extension. Everybody was hanging on, letting  
25 me get this one more extension.

1                   This was a project that started out  
2     of our office, out of the Office of the Comptroller.  
3     So I was very familiar with it and had been familiar  
4     with it for years. And I was very supportive of it.  
5     I wanted it to be successful. I wanted Jim to be  
6     successful.

7           Q.     Did you make the forced leave decision on  
8     July 1?

9           A.     I made that forced leave decision on -- on  
10    the 28th, on that Friday.

11          Q.     When did you decide that you were going to  
12    be seeking termination?

13          A.     I never decided that I was going to be  
14    seeking termination.

15          Q.     Can you look at what's marked Plaintiff's  
16    Exhibit O?

17          A.     Yes, I have it.

18                               (Whereupon Exhibit O was marked  
19                               for identification.)

20          Q.     (By Mr. Schmitz) If you could turn to the  
21    fifth page within that packet, it's dated July 2,  
22    2019. And it's addressed to Mr. Richard Frank from  
23    you.

24          A.     It's July 2?

25          Q.     July 2, 2019, yes. This would be the

1 fifth document in this packet.

2 A. To Richard Frank from me?

3 Q. Yes. Hold on. I might be counting wrong.

4 A. Yeah. I'm on three pages. This is five  
5 right here.

6 MR. NORWOOD: No. He --

7 THE WITNESS: He said five.

8 MR. NORWOOD: Are you talking about the  
9 third page?

10 Q. (By Mr. Schmitz) Hold on. Let me get it  
11 right. Sorry. Yes, the letter to Jim -- we'll go  
12 with the letter to Jim.

13 A. That's the one on the fifth page.

14 Q. Right. Addressed to him from you dated  
15 July 2.

16 A. Yes.

17 Q. Okay. Can you just read the first  
18 sentence of that paragraph?

19 A. As of Monday, July 2, 2019, you are being  
20 placed on an official forced leave pending a  
21 pretermination hearing.

22 Q. Okay. So you would agree that a  
23 pretermination hearing was already presented as  
24 early as July 2?

25 A. That was the process. That's what it was

1 titled, a pretermination hearing. It was not meant  
2 to be a termination, otherwise it would have stated  
3 such. I was aware that I had options to discipline  
4 instead of forced leave. I chose forced leave  
5 instead of discipline. I wanted to make sure that  
6 the discipline that I chose was appropriate for the  
7 employee.

8 Q. Can you circle back to the second and  
9 third pages of this exhibit?

10 A. Yes.

11 Q. You see there's two different letters to  
12 Richard Frank both dated July 2?

13 A. Yes.

14 Q. Okay. Can you tell me why there was two  
15 separate letters sent to him?

16 A. Yes. The first one and the second one.  
17 The first one I'm seeing is the one that had more  
18 detail describing actions taken by Jim Garavaglia.  
19 The second one does not describe those actions. I  
20 was advised by counsel to be more clear, that Jim  
21 did not -- would not know why he was being put on  
22 forced leave.

23 MS. HAMILTON: I'm going to object to --  
24 that those conversations are attorney-client  
25 privilege.

1 know who Ashley McClain is?

2 A. With the Civil Service Commission.

3 Q. Were you aware that a civil service  
4 hearing had been scheduled as of July 11?

5 A. Based on the appeal that was filed.

6 Q. Well, did you receive notice, this same  
7 notice -- and I'm going to ask you to just turn the  
8 page to this Notice of Institution of Case and  
9 Hearing. Did you receive a copy of that from the  
10 Commission?

11 A. Not personally, no.

12 Q. Okay. But were you made aware of it,  
13 then, at some point?

14 A. Yeah.

15 Q. So you were aware it was scheduled for  
16 July 23?

17 A. I don't recall if I was aware at the time.

18 Q. All right. Related to his forced leave  
19 and making your decision, after he was placed on  
20 forced leave on July 2, what did you do to assist  
21 you in making that determination? I can repeat the  
22 question.

23 A. Please do.

24 Q. So relative to you making the decision as  
25 what to do after he was placed on forced leave, Jim,

1 I mean, what actions or steps did you take to help  
2 you in making that decision?

3 A. One of the things, that I spoke with  
4 counsel.

5 Q. Okay. Did you do anything else? No need  
6 to talk about what counsel said. We're going to not  
7 talk about that.

8 A. I probably spoke once again to either  
9 Linda Thomas or the Director of Personnel. Those  
10 would have been the steps.

11 Q. Okay. If you skip forward a few more  
12 pages, you'll see a memorandum with Nancy Kistler,  
13 with the City counselor's office, Ms. Morton, your  
14 secretary, dated July 12, 2019.

15 A. Yes.

16 Q. Are you familiar with this?

17 A. Yes.

18 Q. Okay. Who requested that she prepare  
19 this?

20 A. Counsel.

21 Q. All right. All right. Can you  
22 fast-forward, then, past those two documents to a  
23 memorandum from you to Richard Frank dated July 15,  
24 2019. Do you see that?

25 A. Is it dated July 15?

1 I think it's the other way around.

2 MR. SCHMITZ: You're right. Strike that.

3 Q. (By Mr. Schmitz) So it's from Linda Thomas  
4 addressed to Rick. And it says: I told the  
5 comptroller to withdraw her request for forced leave  
6 on J.G.

7 Do you have any recollection of Linda  
8 Thomas telling you to withdraw your request for  
9 forced leave?

10 A. As I stated before, I was in consultation  
11 with Linda Thomas and the Director of Personnel  
12 along with counsel during those periods of time  
13 seeking direction.

14 Q. Right. So I don't want you to answer  
15 anything that involves counsel's advice or direction  
16 or the content of those conversations, but this is  
17 an e-mail where Linda Thomas is making a  
18 representation to Richard Frank about something she  
19 asked you.

20 So I'm asking you in that limited  
21 capacity, do you recall her telling you to withdraw  
22 her -- your request, excuse me, for forced leave?

23 A. I recall seeking direction and Linda  
24 giving me direction. The auditor -- state auditors  
25 were in the Office of the Comptroller performing an



1 audit. And I recall speaking to Linda about that.

2 The auditors had called within days  
3 of Jim being placed on forced leave. The state  
4 auditor specifically told me that she had read the  
5 paper and learned that Jim was on forced leave. And  
6 that she recognized he was a high-level employee.  
7 And specifically she asked, do I have anything to  
8 worry about -- or do we have anything to worry  
9 about? And at the time, I told her no, because I  
10 didn't believe she did. That was within the 14  
11 days.

12 After learning that there were  
13 documents that were official City documents that  
14 were contracts and they were signed by Jim  
15 Garavaglia, within a few days later, I called that  
16 auditor back. And I said, I know you're in the  
17 office auditing and you are auditing contracts. We  
18 have learned that there's a reason for you to be  
19 concerned.

20 They asked me to send them the  
21 documents. And I did so. I sent the auditors the  
22 documents that had been signed by Jim Garavaglia.  
23 And they told me that they would get back to me.  
24 Asked what they would do. And they said they would  
25 let me know.

1                   So this would have been in a few  
2                   days. And then I discussed all of this with Linda  
3                   Thomas as to what to do now since this is coming to  
4                   the time we're going to have a hearing and all of  
5                   this. She let me know there's nothing wrong with  
6                   expending an investigation now that you heard from  
7                   the auditors, now that they're involved. She said  
8                   those things in this e-mail, giving me instructions  
9                   on what I needed to do.

10                Q.    Did the auditor ever present you with a  
11                report?

12                A.    The auditors didn't get back to me in a  
13                timely manner. And I did take it upon myself to  
14                call to find out if, in fact, there was going to be  
15                an audit performed. And I finally got an answer  
16                from the auditors that they were not going to audit  
17                the documents that I sent, because they had a  
18                specific scope of work that they were interested in  
19                completing, which was fiscal year 2018. And those  
20                documents are outside of their scope of work. And  
21                they said they would not be giving me any audit  
22                report on that. And that answer came from them in,  
23                I believe, August.

24                Q.    Did they ever subsequently do an audit on  
25                2019?

1           A.    I never followed up.  As the comptroller  
2   of the City, it was my responsibility to follow up  
3   if, in fact, I wanted them to take further steps to  
4   specifically audit the records surrounding those  
5   documents that were signed by Jim Garavaglia.

6           Q.    Okay.  So you didn't ask -- just so I'm  
7   clear on your answer, you didn't ask and they did  
8   not do it; is that correct?

9           A.    That is correct.

10          Q.    Thank you.  If you could turn the page  
11   from that, you see there's a letter to Mr. Frank  
12   again dated July 18.

13          A.    Yes.

14          Q.    Okay.  And again you're requesting he be  
15   placed on forced leave?

16          A.    Yes.

17          Q.    Did you then withdraw your original  
18   request for forced leave as recommended by Linda  
19   Thomas?

20          A.    I believe that is the letter dated July 18  
21   to Richard Frank stating as such.

22          Q.    Well, I see that you're requesting it.  
23   Just so I'm clear, had you already withdrawn your  
24   prior requests dated July 2, had you actually  
25   withdrawn that request before you issued --

1 Ms. Morton on behalf of you, using your e-mail  
2 address, wrote: Dear Mr. Frank, my apologies.  
3 Please see attached revised letter.

4 Do you know why approximately 25  
5 minutes after Mr. Frank was informed that a letter  
6 had been hand delivered, she then sent a revised  
7 letter?

8 A. From what I'm reading here, it states from  
9 Richard Frank that he wrote: Thank you.

10 And he wrote: Could you also add  
11 words "serious" and/or "fiscal" before improprieties  
12 to strengthen and clarify.

13 Q. Right. I believe, unless I'm wrong,  
14 that's in response to what Ms. Morton wrote prior to  
15 that. Because what she wrote is time stamped 2:50.

16 A. And two minutes later, he writes --

17 Q. And I'm going to get to that. My question  
18 was not -- I don't want to confuse the issue. My  
19 question was, do you know why Chana sent a revised  
20 letter 25 minutes later before he responded two  
21 minutes later? Because it appears there was a  
22 letter delivered that was sent and then there's no  
23 subsequent e-mail response that was provided to us  
24 from Richard Frank, but yet Chana, 25 minutes later,  
25 sent a revised letter. Do you know why there was a

1           Q.    I just wanted to make sure that was still  
2   the case after your attorney asked that question,  
3   so.

4                        So you were asking now for a 30-day  
5   extension?

6           A.    Yes.

7           Q.    All right.   Why did you ask this at this  
8   time?

9           A.    I asked for this extension and additional  
10   time, because I had not heard from the auditor.

11          Q.    All right.   And why did you not seek or  
12   issue -- Strike that.

13                       Why did you not issue a notice of  
14   pretermination at this time?

15          A.    I asked for this extension, because I had  
16   not heard from the auditor.   And I had preference --  
17   or preferred that I hear a response from the  
18   auditor.

19          Q.    Did you believe at this point in time that  
20   you had a sufficient basis to request termination?

21          A.    Well, that wasn't my concern.   My concern  
22   was to have a complete picture of the situation that  
23   we had and have a complete picture of my problem.  
24   And I thought that with the auditor's input, I would  
25   have more clarity and I would have more information.

1 So I wanted to have the auditor's input. And so I  
2 did discuss this with Linda Thomas and Richard  
3 Frank. And then this extension was requested. And  
4 it was later rejected. But it was requested because  
5 I wanted the information. And I had not heard back  
6 from the state auditors.

7 Q. Had you made your decision as to whether  
8 or not you were going to seek termination?

9 A. No. I had not made a decision.

10 Q. All right. I'm going to fast-forward  
11 to -- let me find it. It's near the end. It's a  
12 letter dated August 28, 2019 from you to Richard  
13 Frank.

14 MR. NORWOOD: Towards the back. A little  
15 bit further.

16 A. To Mr. Garavaglia?

17 Q. (By Mr. Schmitz) No, no. This is to you  
18 from Director Frank.

19 A. Director Frank? One page over. No. The  
20 other way.

21 Q. Okay. Do you have it?

22 A. Yes. I have the letter.

23 Q. Do you know or can you tell me why you  
24 wrote this letter? Why did you withdraw your  
25 request for forced leave on August 28, 2019?

1           A.     That I was preparing for the hearing, a  
2     pretermination hearing. This letter was to request  
3     the withdrawal of forced leave in preparation for  
4     setting a hearing date.

5           Q.     Okay. Were you aware there had been a  
6     Civil Service Commission hearing scheduled for the  
7     following day, August 28, 2019, regarding his forced  
8     leave, Jim's?

9           A.     No, I'm not sure I was aware. I don't  
10    recall being aware of that.

11          Q.     Were you aware a motion had been filed in  
12    advance of that hearing seeking a motion for  
13    continuance --

14          A.     Yes.

15          Q.     -- on the 16th of August seeking to  
16    continue the Civil Service Commission hearing date?

17          A.     I believe I may have been advised by  
18    counsel.

19          Q.     Were you aware that the hearing officer  
20    had denied a request for continuance?

21          A.     I believe I was advised by counsel.

22          Q.     When you did make the decision to  
23    terminate Jim? Was it on August 28?

24          A.     I made the decision to have a  
25    pretermination hearing. And I made the decision to

1 have the hearing prior to putting the letter  
2 together.

3 Q. And why did you make that decision on that  
4 date?

5 A. A pretermination hearing would afford me  
6 the opportunity to hear from Mr. Garavaglia and to  
7 hear from his point of view as he would explain to  
8 me his actions, his misconduct, the reasons why he  
9 was dishonest with me on several occasions.

10 And then of course after the hearing,  
11 I would have two weeks, according to civil service  
12 rules, to render a kind of discipline that would be  
13 appropriate after hearing from him. That it would  
14 have been unfair to only have one side of the story  
15 inserted into a decision for discipline. And I did  
16 not choose to make a one-sided decision for  
17 discipline.

18 Mr. Garavaglia had served the City  
19 for more than 30 years. And as his supervisor, I  
20 recognized and honored the time spent on the job.  
21 And so pretermination hearings afford not only the  
22 employee but the supervisor to have a sit-down in a  
23 formal manner to get an understanding as to what  
24 happened from both sides point of view.

25 Q. Did you not believe that that opportunity



1 A. Yes.

2 Q. Do you recognize this e-mail chain that's  
3 on this first page?

4 A. Yes.

5 Q. Okay. Do you know what this e-mail chain  
6 is discussing or what it relates to?

7 A. Yes.

8 Q. Okay. Can you tell me?

9 A. On this first page, this e-mail chain is  
10 Beverly Fitzsimmons corresponding with Jim  
11 Garavaglia as to whether or not he has told me about  
12 the extension for the real estate project. Beverly  
13 is admonishing Jim Garavaglia, because she is  
14 stating to him that he had told her that I was okay  
15 with it. As she states, You had told me she was  
16 okay with it. Is what I'm reading here that Beverly  
17 Fitzsimmons is saying to Jim in an e-mail.

18 Then she's telling him that she --  
19 and the "she" is referring to myself -- she told me  
20 that she was not. Did you work this out with her  
21 yesterday?

22 And then Jim is replying to her: I  
23 did not talk with her about it, but I will.

24 And then Beverly is responding:  
25 Please do it soon, because Stephanie is trying to

1 finish the agenda.

2 And the agenda she's referring to is  
3 E&A. This was the Tuesday before E&A. This would  
4 have been at 8:40 in the morning when this  
5 conversation ended.

6 Q. When was E&A?

7 A. Wednesday, the next day.

8 Q. Okay. Did you discuss this with Jim on  
9 that date?

10 A. On Tuesday?

11 Q. Yes.

12 A. I believe Jim called me on the day after  
13 he had this discussion with Bev.

14 Q. So the day of the E&A?

15 A. He called me on the Tuesday after he  
16 discussed on that same Tuesday morning after Bev  
17 asked him to discuss with me. And he did say that  
18 he would. And then he called me.

19 Q. All right. And what did he tell you  
20 during that phone call?

21 A. I don't recall the exact conversation but  
22 it was something to the effect that the mayor's  
23 office wanted to put documents for the extension on  
24 E&A. And I thought that was really odd and strange  
25 since the project was the project from the

1 comptroller's office of which Jim was the leader of  
2 the project from its inception even when he was the  
3 asset manager.

4 So I was listening to Jim at this  
5 point to hear what else he was going to say after  
6 saying that to me. I was like hm-hm, that was kind  
7 of like not what I would hear when he finally called  
8 me the day before E&A. Oh, Comptroller, the mayor's  
9 office is going to put this on as an item. Do you  
10 want me to send them the documents?

11 Another strange thing out of the  
12 ordinary, send them the items. Jim, I think you  
13 already sent them the items, is what I already knew  
14 as a fact. That's when you had pre E&A, which is a  
15 week earlier. The Wednesday before the Wednesday  
16 meeting, you discuss with people what you want to  
17 add to the agenda. And by that Tuesday before,  
18 Beverly had already informed me that this item was  
19 being added or attempted to be added by Jim.

20 So that's why she was having the back  
21 and forth with Jim, because I needed to hear from  
22 Jim because Jim was in charge; not Beverly. This is  
23 a direct example of how two deputies must coordinate  
24 and communicate together in order -- as a team.  
25 This is team comptroller's office. And we're in

1 charge of this particular project. And so both  
2 deputies needs to have an understanding that this is  
3 a go or it's not. And Jim was the No. 1 person with  
4 that knowledge.

5 Beverly could not usurp his knowledge  
6 in any way, shape or form as the Muni Court project,  
7 because she was working with the attorneys on both  
8 sides. That would be Tom Ray representing the City  
9 and that would be the Spencer Fane attorneys  
10 representing the developers. Jim was all in the  
11 mix. And he was supposed to inform me as the  
12 comptroller, as well as any other person in the  
13 comptroller's office, that had anything to do with  
14 helping this project come along.

15 Q. Did you ask -- did you ask him why he had  
16 waited that long to talk to you?

17 A. I listened to Jim on the call, on the  
18 Tuesday morning call where he called me and told me.  
19 He is telling me the mayor's office wants to put  
20 this on the agenda. Comptroller, show us in the  
21 document. I was stunned. I believe, but not sure,  
22 that I may have said to him something to do with the  
23 taxes. But I don't know if I said that, because  
24 that was what was on my mind.

25 That was what I was unclear as to

1 whether there had been tax clearance. I don't know  
2 if Beverly knew. What I did know is that the  
3 conversation with Beverly and myself was we're not  
4 sure what's going on with the project. And I  
5 couldn't -- she couldn't tell me. I said, I don't  
6 know, because I haven't heard from Jim.

7 Q. Did you ask him?

8 A. I didn't ask Jim to do anything except  
9 when he asked me, shall I send the documents to the  
10 mayor? I said, send the documents to me. Now --

11 Q. When did you talk to Bev before that?

12 A. I talked to Bev probably right before she  
13 talked to Jim. Because I told her that I hadn't  
14 heard from Jim. She asked me had I heard from Jim.  
15 No, I haven't heard from him.

16 Q. Did you follow up with Jim to ask him  
17 those questions?

18 A. Jim called me.

19 Q. Right. I know. But before that.

20 A. Beverly asked me -- and I'm trying to  
21 answer, because you asked me did I follow up with  
22 Jim. And I think you asked me after I talked to  
23 Beverly.

24 Q. Correct. Before he reached out to you?

25 A. No.

1 item. And that's the Muni Court item. Jim had told  
2 me earlier in the month, the first week in June,  
3 about the item and the extension that he thought was  
4 coming. He said, Comptroller, I don't think it's  
5 going to go.

6 From that first week, I didn't hear  
7 anymore from Jim about the item. Now, that's  
8 important, because the item was time sensitive. Jim  
9 is deputy director -- deputy comptroller for Finance  
10 & Development in charge of this project, not the  
11 mayor's office, not SLDC. The comptroller's office  
12 under the direction of Jim Garavaglia, who's worked  
13 consistently with this item.

14 Q. What information do you know about --

15 A. And as I complete my -- before you start,  
16 I heard from Jim on the Tuesday before E&A which was  
17 the second time I heard from him about the item. So  
18 I'm done with my response. I heard from him the  
19 first week of June. And the second time I heard  
20 from him was the day before E&A. In the meantime, I  
21 was hearing from Beverly about the item.

22 Q. Okay. Are you done?

23 A. Yes.

24 Q. All right. Do you have any knowledge that  
25 things change quickly in those final days before the

1 E&A meeting?

2 A. Absolutely. And that is why I should have  
3 been updated and kept in the loop by Jim about the  
4 item on a regular basis. On a day-to-day basis,  
5 sometimes hourly, sometimes every minute, because  
6 this was a time sensitive item. So Jim had  
7 information about the item and whether it had to do  
8 with the taxes, whether it had to do with a default.  
9 The comptroller should have been updated about that,  
10 but I was not.

11 Q. What basis do you have to believe that he  
12 had concrete information to give you?

13 A. The basis is having looked at these  
14 e-mails, in particular the ones from Beverly who is  
15 insisting that he speak with me, because I'm telling  
16 her from the knowledge that I had earlier because  
17 Jim had already told me, hey, I don't think it's  
18 going to go. So what does Beverly know? She  
19 doesn't have the knowledge that Jim knows. I know  
20 that as the comptroller, because I know what he has  
21 put into the project. She hasn't.

22 So if he knows that this is something  
23 that should go, then why don't I know as the  
24 comptroller of the City of St. Louis. I should be  
25 well-apprised of the activities of this particular

1 project. And that should have come from Jim  
2 Garavaglia, because it couldn't come from Beverly.  
3 Had she had knowledge of it, I believe she would  
4 have told me about the deal and whether it should  
5 go. But her answers to me were only, Comptroller, I  
6 don't know, I don't know, I don't know.

7 So I said, Well, I'll hear from him.  
8 I'll hear from him. Because in that month, we had  
9 the closing of the refinancing of the airport deal,  
10 which was highly volatile. We also had this deal,  
11 which I thought was not volatile at all, because we  
12 had been working on it so diligently for so long.  
13 Tom Ray, who was the outside professional attorney,  
14 was very diligent in handling anything and  
15 everything that had to do with this deal.

16 As I look back and see e-mails from  
17 Tom Ray regarding this deal, he's the one that  
18 helped protect the integrity of the office when it  
19 came to making sure this deal came to fruition when  
20 Jim did not.

21 Q. What do you know about the other attorney,  
22 not Tom Ray, the developer's attorney?

23 A. Denny?

24 Q. Right. Requesting to the mayor's office  
25 that the item be added to the agenda?



1 website and the comptroller's office.

2 Q. What's that person's title?

3 A. That's Tyson Pruitt, who is the public  
4 information officer, in the Office of the  
5 Comptroller, reports to the comptroller. He became  
6 aware of a posting. Then he made me aware of that  
7 posting. Then he told me that he was going to take  
8 care of it.

9 Q. Okay. Did he tell you where that came  
10 from?

11 A. He told me it came from the office of the  
12 mayor.

13 Q. Okay. And how did he know that?

14 A. Because he is the computer communications  
15 person, and I believe he made inquiries, proper  
16 inquiries, to determine where the posting came from.

17 Q. Okay. But you don't know who those  
18 inquiries were to?

19 A. I did not ask him who he inquired. I  
20 would believe he would have to check with web  
21 people, web communications type IT people. So that  
22 they could identify who made postings.

23 Q. Did you ever talk to Bev about all of this  
24 after the fact, after the E&A meeting had taken  
25 place?

1 A. I did.

2 Q. What did she tell you of that meeting?

3 A. After the meeting had taken place, she --  
4 I spoke to her the next day, because I had never  
5 heard a mayor -- any mayor read e-mails of -- of an  
6 employee of other E&A member's office. I was  
7 stunned. Bev told me she was stunned. And we were  
8 both embarrassed. We spoke on the phone about that.

9 I said: Bev, talk to me about this  
10 e-mail that we didn't see or I didn't know about.

11 She said: Oh, yeah. There's an  
12 e-mail thread among pre-E&A.

13 I said: Oh. What about it?

14 And she explained. In her  
15 explanation, she made me to understand that when  
16 there's pre-E&A items come to the table of E&A and  
17 then there are e-mail discussions back and forth as  
18 to what's presented and what the other offices think  
19 about it and they take time to comment.

20 And so I asked her to send them to  
21 me. I said, send them to me so I can see what  
22 you're talking about. When I saw the e-mails, I did  
23 see where discussions had been between the E&A  
24 members, and in particular I'm talking about this  
25 item, the president of the board had decided that he

1 did not want to hear the item.

2 The item was sent from Jim, I believe  
3 it was the Friday, the 14th, to the pre -- to  
4 Beverly, who is my pre-E&A person, and asking her to  
5 add it. And then she immediately sent it to the  
6 other members, Tom Shepherd and -- which represents  
7 the president of the board, Tom Waelterman, who  
8 represents the mayor, for consideration. Her words  
9 were something like, here's this extension again.  
10 That was the Friday or Monday. The president of the  
11 board's office responded, we don't think we want to  
12 see this item at this time.

13 The mayor's office from Tom  
14 Waelterman, I don't believe there was a response.  
15 And that is how I learned or at least part of how I  
16 learned how the mayor got the e-mails that she read,  
17 because automatically they would have come to the  
18 mayor's office and president of the board's office,  
19 because Beverly sent the item that Jim had requested  
20 be placed on the agenda.

21 And so that's how I learned about the  
22 e-mail that the mayor did.

23 Q. And it's your contention that you believe  
24 the item was not going to be on the agenda at that  
25 time?

1           A.    I wasn't sure about that, because I hadn't  
2   heard from Jim. And that's very sincere. I didn't  
3   know. I even told Beverly prior to the meeting, I  
4   was like, Beverly, I don't know. I haven't heard  
5   from Jim. I don't know what's going on. And I  
6   needed to hear from Jim. I needed to be in the  
7   loop. I needed to be updated about the item,  
8   because I was hearing that there were problems. In  
9   fact, Jim had said earlier in the month, I don't  
10  think it's going to go.

11                       So those words were still with me in  
12  the month of June. This is the month of June. We  
13  haven't even gotten to the middle of June. The  
14  first, second week of June, I had traveled to  
15  Chicago I recall. I had to talk about financing of  
16  municipal jails. We had financed a jail 20 years  
17  earlier. I was asked to speak about that. So I  
18  know in the first week of June, that kind of thing I  
19  was doing, among the other big ticket item which was  
20  the airport refinance of which the mayor was asking  
21  for lots of explanations and answering questions.

22                       So I had a lot on my plate in terms  
23  of what I was working on in addition to this  
24  particular Muni Court item. This was a big item.  
25  That those things were big. And this was between, I

1 guess, the first week in August. And I guess you  
2 get to the third week, which is the third Tuesday --  
3 I mean the third Wednesday, which is when the E&A  
4 meeting occurred.

5 But prior to the regular E&A, the  
6 mayor called for an E&A meeting on June 11, which we  
7 previously talked about. So I prepared for that  
8 meeting. And then chose not to go because of the  
9 airline situation of which the airlines was  
10 displeased with the mayor having stated that she  
11 would have a special meeting to vote on the  
12 refinancing. They were very displeased. So that  
13 was also in play in that time period.

14 And as I was sitting with Jim on that  
15 day, Jim never discussed with me any updates that he  
16 would have had about the Muni Court project. He had  
17 all the opportunity in the world. He had my full  
18 attention on June 11 to talk to me about the Muni  
19 project whether or not they had paid their taxes,  
20 whether or not he thought the deal was going to go,  
21 whether or not he wanted to put it on E&A. He did  
22 not ask me. That was June 11.

23 And I'll finish so that you can  
24 start.

25 Q. You're saying he talked to you earlier in

1 the month. And now you're saying way back on  
2 June 11, he had an opportunity to talk to you.

3 A. I said earlier in the month --

4 Q. What date was that?

5 A. That would have been the first week in  
6 June.

7 Q. Why do you think that he had new  
8 information to give you as of June 11?

9 A. I am saying that if he had information on  
10 that date, I was available.

11 Q. Okay. But you don't know if he did or did  
12 not?

13 A. I stated I did not know anything. What I  
14 do know is he didn't talk to me about it. I'm not  
15 aware that he had information or that he did not  
16 have information. I am aware that I was available  
17 and made myself available. We were face-to-face.  
18 And I'm aware that nothing from Jim about the Muni  
19 Court project was talked to about on that day while  
20 we were in a meeting.

21 Q. Were you unavailable at other times in  
22 that month?

23 A. I was in Chicago at a conference that I  
24 just spoke to you about. That would have been the  
25 first week -- between the first and second week of

1 Q. So this miscommunication here, which you  
2 still got your answers the day before E&A as we've  
3 testified, what policies does that violate in your  
4 opinion?

5 MS. HAMILTON: I would object that that  
6 mischaracterizes the witness' testimony.

7 But to the extent you want to answer the  
8 question, you can answer.

9 MR. NORWOOD: I join in that objection and  
10 also think it might call for a legal  
11 conclusion, but subject to that.

12 A. Well, as I understand the question, I  
13 never told you that there was any violation. And I  
14 never told you there was a miscommunication. I  
15 never said that. You're injecting that now.

16 Q. (By Mr. Schmitz) Do you consider it a  
17 violation?

18 A. And I never told you I consider it a  
19 violation. What I consider is insubordination for  
20 an employee of mine who had direct instructions to  
21 keep me in the loop as the deputy comptroller for  
22 Finance & Development, and I was not kept in the  
23 loop.

24 In addition, on the Tuesday, I  
25 believe there was -- I was spoken to with

1 misinformation. That's different from  
2 miscommunication. I was directly communicated with,  
3 with dishonesty. I was told a lie on that phone.

4 Q. You said you believe. So why do you  
5 believe that?

6 A. Because his words were: The mayor wants  
7 to add the item to the agenda. Do you want me to  
8 send the documents to the mayor's office? I had to  
9 consider what I knew to be true versus what he was  
10 saying to me on the phone. They didn't connect.

11 Q. What did you know to be true?

12 A. What I knew to be true from Beverly was  
13 that Jim was adding the item. He's telling me that  
14 the mayor's adding the item. So I didn't know who  
15 to believe. Remember, this is at 9:00 something in  
16 morning.

17 Q. So you're saying --

18 A. Later on in the day -- I'm answering the  
19 question as fully as I can, because it does sound  
20 strange here. But these are the facts.

21 I heard from Beverly. Then I heard  
22 from Jim. Then I heard from Tyson Pruitt who's  
23 telling me the mayor's posting. So now what Jim is  
24 saying at 9:00, I'm hearing from Tyson later in the  
25 day, that there's this posting.



1 Q. Well, that tends to suggest that it's  
2 true, does it not?

3 A. It suggests in the moment that I'm hearing  
4 from Jim, and he's not telling me anything at all  
5 about him adding the project, he's telling me about  
6 the mayor. I hadn't heard from him about his  
7 activities. He's my employee. I need to hear your  
8 activities. I don't want you to tell me about  
9 somebody else that's not in our office. You're on  
10 our team. What are you doing with regard to this  
11 project? Like I had heard in all the months in the  
12 past.

13 Every single time prior to this time,  
14 Jim had updated me properly. And I had proper  
15 information when this item -- this, as a matter of  
16 fact, is probably the third extension. The other  
17 two extensions, I had no problems hearing from Jim  
18 about why this project should go on the E&A or not.  
19 Beverly never informed me about whether the project  
20 should go on the agenda or not. It was always Jim.

21 As a matter of fact, if you look at  
22 the agendas, you will see that it's coming from  
23 deputy director -- I mean deputy comptroller for  
24 development, Finance & Development. That's who  
25 places it on the agenda. And those discussions then

1 have to be had between the supervisor, which is me,  
2 Comptroller Green, and deputy comptroller, which is  
3 Jim, had been had. First time it was put on the  
4 agenda. Second time it was put on the agenda for  
5 this. And this third time, I don't know what  
6 happened.

7 Q. Again, the claim that the mayor -- you're  
8 saying that that was a lie, that the mayor wanted to  
9 put -- I'm not hearing any evidence. Whether Jim  
10 wanted to add it or not, how is that evidence that  
11 the mayor's office didn't also want to add the item?

12 A. It's evidence because -- or what I heard  
13 in the early hour was contrary to what I knew at the  
14 early hour. Notwithstanding all of what Jim knew.

15 Q. What did you know about the mayor's office  
16 adding it to the agenda at that early hour?

17 A. What Jim told me.

18 Q. Okay. Did you have anything that  
19 suggested that that was false?

20 A. Yes, I did.

21 Q. And what is that?

22 A. The knowledge from Beverly.

23 Q. So Beverly had direct knowledge that the  
24 mayor's office did not want to add it to the agenda?

25 A. What she had was the knowledge that Jim

1 And there would be others that a counselor or lawyer  
2 would know that I would not know perhaps.

3 Q. All right.

4 (Whereupon Exhibit S was marked  
5 for identification.)

6 Q. (By Mr. Schmitz) So I have what's marked  
7 Plaintiff's Exhibit S, which the first page is a  
8 letter stating it's from you to Jim dated July 21,  
9 2017. Do you see that page?

10 A. Yes.

11 Q. All right. Do you recall writing this  
12 letter?

13 A. Yes.

14 Q. Okay. Why did you write the letter?

15 A. I wrote the letter to inform Jim that he  
16 did not have and he was not authorized to sign  
17 agreements on behalf of the City of St. Louis as  
18 deputy comptroller for Finance & Development. The  
19 signature that he signed on an agreement with the  
20 composting company were erroneous. They were  
21 extensions between the City of St. Louis and the  
22 St. Louis composting company. And it was a reminder  
23 to Jim, because I had verbally told him one year  
24 earlier that I recall when he asked if he has  
25 signature authority, and I verbally told him he did

1 not.

2 And I recall that so clearly because  
3 Tom Ray called me right after I had the discussion  
4 with Jim about signature authority. And at the  
5 time, I thought since he was brand-new on the job,  
6 that he maybe thought this came with the new job. I  
7 explained that it did not. I explained Beverly  
8 Fitzsimmons, who was the deputy comptroller, was the  
9 only designated one besides myself that had the  
10 authority to sign agreements on behalf of the City,  
11 binding the City. And that he did not have that  
12 authority.

13 So when I saw this signature wherein  
14 Jim Garavaglia was crossing out my name and title on  
15 a contract extension and replacing it with his name  
16 and title and signing it in an attempt to inform the  
17 contractor, as well as the Department where the  
18 contractor was contracting with which was the  
19 Forestry Department, that there was a new procedure  
20 wherein his signature was good.

21 I had to inform Jim that he was  
22 incorrect. And that I stated in this e-mail, as you  
23 can see, I'm puzzled as to how this could happen.  
24 This is an improper procedure. And I asked Jim to  
25 please work with Beverly Fitzsimmons so that

1 Michelle Graham, who was in contract compliance  
2 office, can process and provide a properly executed  
3 extension. Because what he had provided was not  
4 properly executed. And it would be putting the City  
5 and the contractor at risk.

6 Q. Did you ever have a discussion with Jim  
7 about any opinions related by the City counselor's  
8 office related to this?

9 A. No. Jim did not contact me after he went  
10 to the City counselor's office seeking their advice.  
11 Had he contacted me, then we could have had that  
12 discussion. But I was unaware that he was seeking  
13 advice outside of the advice I had given him  
14 directly as his supervisor. Jim did not follow my  
15 advice.

16 But I was fortunate that when he did  
17 seek the advice of Tom Ray who was outside counsel,  
18 Tom Ray e-mailed me to let me know that Jim asked  
19 him about signing documents. And that reminded me  
20 that I had a verbal with Jim about signing  
21 documents. And Tom Ray then e-mailed me that  
22 subsequent to my discussion with Jim that he asked  
23 whether he had signatures authority obviously. And  
24 Tom Ray told him that he would contact me.

25 As a matter of fact, Jim is copied on

1 Tom Ray's e-mail. So that Tom Ray is letting Jim  
2 know he is checking with the supervisor, which is  
3 me, which is basically what Jim should have done.  
4 In the cases where Jim sought other counsel, those  
5 counselors did not e-mail me. So I was not aware  
6 and could not have ever been aware that Jim sought  
7 advice to sign documents when his direct supervisor  
8 had given him a direct order not to sign the  
9 documents, which I did verbally as well as in  
10 writing as you can see that's in this memorandum  
11 today.

12 Q. Did you do anything other than verbally  
13 and in writing bring this to his attention?

14 A. I did not.

15 Q. Do you have any knowledge of this issue  
16 with an unauthorized signature as you listed in the  
17 title that occurred after July 21, 2017?

18 A. I believe I -- I don't recall if the AT&T  
19 invoice was 2017. And I believe there may have been  
20 another AT&T subsequent to that. But I'm not sure.  
21 I believe I saw one either in 2018 and/or in 2019.  
22 There was multiple AT&T documents signed by Jim that  
23 had multiple dates. So I'm not sure if the  
24 July 2017 was the last one, if that's what your  
25 question is, if that's the last one or if there were

1 Q. (By Mr. Schmitz) I'm going to draw your  
2 attention to what's now marked Plaintiff's Exhibit  
3 T. Do you recognize this document?

4 A. Yes.

5 Q. Okay. What is this?

6 A. It's internal audit document.

7 Q. All right. Do you see what's Bates  
8 stamped, third page, GRN 000627?

9 A. Yes.

10 Q. All right. That's a letter or a memo that  
11 was written by Ishmael Ikpeama. Do you know that  
12 individual?

13 A. Yes.

14 Q. And who is he?

15 A. He's an employee of the comptroller's  
16 office. I believe he's retired.

17 Q. All right. So was he an employee at the  
18 time that this was written?

19 A. Yes.

20 Q. All right. And did his position which is  
21 listed here as internal audit supervisor fall under  
22 the supervision of the deputy comptroller of Finance  
23 & Development?

24 A. Yes. At that time.

25 Q. All right. Have you seen these documents

1 in this exhibit?

2 A. During this process, I have.

3 Q. All right. Are you aware of any e-mails  
4 between Dr. Ikpeama and Jim and Sonia?

5 A. During this process, I became aware of  
6 some.

7 Q. Would you say it's a responsibility of the  
8 deputy comptroller for Finance & Development to  
9 ensure that the findings of this audit are accurate?

10 A. No.

11 Q. Do you believe that getting this done  
12 timely according to the timeline set out by  
13 Dr. Ikpeama supercedes the need to get the  
14 information accurate?

15 A. You mean putting out a report versus --

16 Q. Let me ask it differently. What is more  
17 important -- Jim, as the supervisor for Dr. Ikpeama,  
18 what is more important that he follow Dr. Ikpeama's  
19 self-created deadline or that Jim ensures that the  
20 information is accurate?

21 MR. NORWOOD: Let me object. I think  
22 that's a loaded question and assumes a lot of  
23 facts that are not in evidence.

24 And subject to that, though, you can  
25 answer the question.



1           THE WITNESS: I really don't understand.  
2           It sounds like you're asking me who's more  
3           important.

4           Q. (By Mr. Schmitz) No, I'm not asking you  
5           who's more important at all.

6           A. You're saying that Ishmael didn't have any  
7           processes and procedures to follow. You just said  
8           self-imposed. So you took me away when you said  
9           that. Because I thought it was apparent to me that  
10          you are characterizing the two. So please help me  
11          understand what you really want to know.

12          Q. Where does his deadline come from?

13          A. His processes and procedures and his  
14          supervisor. He would have had someone supervising  
15          him. And in his profession as a CPA and an auditor,  
16          internal audit, he would have understood his  
17          processes and how long he should have to do a review  
18          like this.

19          Q. And that comes from his supervisor?

20          A. Yes.

21          Q. Okay. And who did that supervisor --

22          A. That would have been whoever at the time  
23          was -- that would have been -- it would not have  
24          been Jim Garavaglia in terms of deadlines, if that's  
25          what you're asking. Jim did not -- was not and is

1 not an auditor in the office. He's a temporary --  
2 had temporary oversight of the department but not  
3 the function. And that's a distinction. This is an  
4 audit function. That Jim could not tell them how to  
5 do their independent jobs.

6 These were professionals, and  
7 licensed professionals to add to that. These are  
8 licensed professionals who could lose their license  
9 if they were to do things outside of the accountancy  
10 and audit and the audit rules. So there are audit  
11 rules that govern their job.

12 Q. What rules are those?

13 A. The audit rules that govern the auditor's  
14 jobs are spelled out for auditors. I'm not an  
15 auditor. So there are rules for auditors like there  
16 are rules for lawyers and accountants. So their  
17 rules would have dictated what they would have had  
18 to do with regard to this review in terms of setting  
19 the processes in place to audit.

20 Q. Do you believe -- I'm not trying to  
21 characterize your testimony in any way. I'm asking  
22 this as a clarifying question that these audit  
23 rules, as you refer to, are binding on him for an  
24 internal audit done by the comptroller's office on  
25 behalf of the comptroller's office, you know, and

1 those are inflexible dates?

2 A. You mean for Ishmael?

3 Q. Uh-huh.

4 A. I absolutely do. Because they are  
5 reviewed independently by other audit offices  
6 similar to the audit office that exists in the  
7 Office of the Comptroller. For example, the audit  
8 office in the County of St. Charles independently  
9 comes in and audits. And they have a process where  
10 they audit in order to keep all of the internal  
11 audit offices that exist up to standard. And  
12 they're very serious about their work. That's what  
13 I know about that.

14 Q. Okay. And what if the audit has errors in  
15 it? How is that corrected?

16 A. The auditors would correct that and  
17 reissue.

18 Q. Okay. So again, I'm not asking about  
19 independent auditor rules. I'm talking about your  
20 rules as the comptroller for the comptroller's  
21 office. What is your expectation about getting the  
22 information accurate during an audit?

23 A. My expectation is that Ishmael and any of  
24 the internal audit employees would perform in a  
25 professional manner and adhere to the professional

1 standards of their profession. But I also would  
2 expect my employee Jim Garavaglia as the deputy  
3 comptroller to adhere to the professional standards  
4 of the operations of the comptroller's office. It's  
5 an expectation that I believe I would -- it's a  
6 reasonable expectation that they would be able to  
7 perform their jobs in a professional manner.

8 Q. Okay. But that's -- I'm not sure the  
9 question about professional manner came up. But  
10 those auditor rules do not apply to Jim, correct?

11 A. That is correct.

12 Q. All right. And are there independent  
13 separate policies within your office that inform  
14 even a deputy comptroller, that they are subject to  
15 those auditor rules in terms of their supervision of  
16 somebody conducting an audit?

17 A. The auditors are subject to the rules.  
18 Those who they audit, which would have been in this  
19 case, Jim Garavaglia. As the supervisor at the time  
20 of the audit, he was supervising Gateway  
21 Transportation. He would have been asked by Ishmael  
22 to respond. That's what he's after, a response.

23 Q. Okay. So my question was, are there any  
24 rules that exist within your office directing -- or  
25 policies, procedures, directing deputy comptrollers

1 on the need to follow the auditor's rules --

2 A. Okay.

3 Q. -- as it pertains to the supervision? So  
4 I know they're not subject directly to the rules.  
5 But as it pertains to the supervision of an auditor  
6 conducting an audit?

7 A. As I understand your question, that gets  
8 back to me saying my expectation for the rules in my  
9 office from the comptroller's standpoint is that the  
10 behavior of the deputy comptroller for Finance &  
11 Development would be to perform in a professional  
12 manner. That means timeliness. That means honesty.  
13 That means being able to act in a sense of urgency  
14 when those things call for that. That's -- and  
15 perform the job, his job, in a professional manner.

16 Q. Would that also be --

17 A. So that would be to simply respond.

18 Q. Would that include accuracy?

19 A. From his position, of course.

20 Q. Okay. Due diligence?

21 A. Due diligence, of course. Because the  
22 request from the internal auditor is for a response.  
23 The internal auditor is not said to be always  
24 accurate. That's why you ask for the auditee's  
25 response. Because if, in fact, the auditee finds an

1 recall I had spoken to Lyda Krewson about a  
2 year earlier about a deputy comptroller job.  
3 She turned me down. I was just thinking that  
4 when you asked the question. This was before  
5 she became the mayor.

6 Q. (By Mr. Schmitz) Okay. Well, this would  
7 have been back when Jim was --

8 A. This was before Jim.

9 Q. Yeah. I was specifically asking about  
10 this go around.

11 A. I understand, but I was still thinking. I  
12 was trying to make sure that I wouldn't leave  
13 anybody out that I had considered for the position.  
14 And Lyda Krewson was considered, because I asked her  
15 directly. We both sat at the airport commission  
16 meeting. There was one meeting. And she looked at  
17 me like I would get a look like -- I forget what she  
18 told me. But she told me -- oh, you said, I have a  
19 job. That's what she said.

20 MR. SCHMITZ: Can you repeat that last  
21 question?

22 THE COURT REPORTER: Question: If there  
23 was a male and female candidate that you were  
24 considering and all things were equal, do you  
25 feel like it would be okay to select a

1 candidate based on their gender at that point?

2 A. I guess I don't look at gender in terms of  
3 positions when I'm wanting to hire. I never have  
4 and I never will. The gender has nothing to do with  
5 the work qualifications for a job. And so I would  
6 say absolutely not.

7 Q. (By Mr. Schmitz) Have you ever considered  
8 age before when considering somebody for a position?

9 A. Absolutely not. I never considered age,  
10 gender, race. Age, gender, race. What's the other  
11 thing? Color, sex. I don't consider those kinds of  
12 things when I am looking for qualified professionals  
13 to take a job in the Office of the Comptroller,  
14 because those things are not important. What is  
15 important is the qualified individual willing and  
16 able to take the job. And they will come with the  
17 qualifications to do the job. And they live in the  
18 City of St. Louis.

19 Q. Do you consider factors related to age?  
20 And this is specific to age, not the other items  
21 that you mentioned.

22 A. I never consider age.

23 Q. If I could finish my question. I was  
24 going to ask something specific.

25 Not age. You already answered that

1 question. But likelihood of how long that  
2 individual is going to work or --

3 A. Absolutely not. No.

4 Q. Do you consider whether or not you think  
5 that person's likely to stick around or move on to  
6 another job?

7 A. No, not at all. If they're accepting a  
8 position and the circumstance which has been  
9 explained to them, living in the City of St. Louis,  
10 that has been the most question when a person has  
11 qualified, would come and accept the job. If they  
12 don't live in the City of St. Louis. And I believe  
13 the City of St. Louis gives you six months to move.  
14 So of course I would have wanted to have the  
15 employee in the position longer than six months.

16 Q. Do you think that you have any right or  
17 authority to consider any of those factors at all  
18 before, age, gender, race, any of those factors at  
19 all?

20 A. I do not consider any of those factors at  
21 all, whether I have the right or not. Because that  
22 is not in my character to do so and is not in the  
23 best interest of hiring practices for myself or for  
24 the City of St. Louis. It's just not in the best  
25 interest to be considering those factors.



1           hypotheticals, but subject to that.

2           A.     I don't know.

3           MR. SCHMITZ: I think that's all I have.

4           MR. NORWOOD: Okay. I've got some  
5           follow-ups. Let me dive right in.

6                               [EXAMINATION]

7       QUESTIONS BY MR. NORWOOD:

8           Q.     Counsel made a point about the fact that  
9           when you talked to Jim that Tuesday before the E&A  
10          meeting, that Jim made a reference to the mayor  
11          wanting to place the item on the agenda. Do you  
12          recall that?

13          A.     Yes.

14          Q.     Was it your expectation that he would have  
15          communicated to you that he had already made a  
16          request for that to be placed on the agenda?

17          A.     I did, as well as I was very hopeful that  
18          I would get a full update on the project from Jim.  
19          I was stunned that I did not get a full update about  
20          the particulars of the project, whether or not taxes  
21          were paid, if that was an issue, whether it was  
22          going to be in default, anything like that. I was  
23          stunned about what I heard instead of what I was  
24          expecting to hear.

25          Q.     So just so we're clear on the record, it

1 wasn't that the mayor was placing the item on the  
2 agenda. It was the fact that he hasn't communicated  
3 to you that he made that request to place it on the  
4 agenda on your behalf?

5 A. On my behalf. And he could have told me  
6 the reasons for the request and the reasons why we  
7 need to go ahead and put this on the agenda and on  
8 and on and on. And I would have supported Jim.  
9 Because in times past, I would have supported him if  
10 he had particular -- and I have to say I heard from  
11 his deposition that he was knowledgeable and in  
12 contact with the collector of revenue about the  
13 taxes, but I didn't know about that until the  
14 deposition.

15 Had I known about that with the  
16 deposition, Jim and I could have had a more  
17 intelligent conversation with information that he  
18 knew. I had no knowledge of his interactions with  
19 the collector of revenue and attempting to get the  
20 taxes and all of that. Had I known that, that could  
21 have been an item put on the agenda from the  
22 comptroller's office as he had requested. But  
23 because I was kept out of the loop by Jim and made  
24 to not have that knowledge, I couldn't work to help  
25 Jim to support him to get the item on the agenda.

1                   So the fact that the mayor was  
2     putting it on the agenda was not only confusing, but  
3     as I said earlier, I had two different comments.  
4     One made by Beverly and one made by him. In that  
5     split moment, I said, Jim, send the documents to me.  
6     Then I had to do all the work at that time. Then I  
7     learned later there was an attempt to put the  
8     documents on.

9                   But the matter at 9:00 in the morning  
10    that Jim had full control of could have been --  
11    could have stopped not only the mayor but also his  
12    first request if he had fully apprised me and told  
13    me why he thought the item should go on the agenda.  
14    Then I would have said, have you told Beverly this,  
15    or are we all going to be on Team Comptroller to get  
16    this item on the agenda?

17                  I was not afforded that because the  
18    behavior that I got from Jim was unbecoming of a  
19    professional at his level to misinform me. I was  
20    misinformed on that call. And I can't express that  
21    enough, because I should have been well informed  
22    instead of misinformed. You gave me all the  
23    information so I can make an intelligent decision.  
24    But he didn't do that. That's why we're here today,  
25    I guess.

1                   If he had done that and done his job  
2     in a professional manner, which I'm pretty sure that  
3     I had a reasonable expectation of having him be  
4     professional and doing his job at the level and  
5     having a sense of urgency to make sure I'm apprised  
6     of this issue so this item can move forward. I  
7     didn't get that from Jim on that day.

8           Q.     Okay. Let's talk generally about why is  
9     it important for your deputies to keep you -- you  
10    referred to -- the term you used was in the loop.  
11    Why is it important for your deputies to keep you in  
12    the loop of what's happening with respect to  
13    projects that impact your elected duties as the  
14    comptroller?

15          A.     It's always important to keep me in the  
16    loop as a deputy comptroller, because the deputy  
17    comptrollers represent me to the public. The deputy  
18    comptrollers are my eyes and ears to those who are  
19    developers, investment bankers, lawyers, and others  
20    who are working projects. They're speaking on  
21    behalf of the comptroller in most cases.

22                   And in some cases, the deputy  
23    comptrollers can misrepresent. And I believe in  
24    this case, Jim misrepresented on my behalf. It  
25    appears from the e-mail trail, that it was told to

1 Jim in some manner that I was not in favor of the  
2 project. And that never existed whatsoever.

3 Q. Okay. You also used the term "integrity"  
4 of the office. Could you explain a little bit more  
5 about why that's important from the standpoint of  
6 your elected duties as the comptroller?

7 A. The integrity of the Office of the  
8 Comptroller is really important to protect. And you  
9 protect it by behaving in a professional manner and  
10 performing your job duties with honesty. You  
11 perform your job duties with professionalism. And a  
12 high level of sensitivity exists, because you're  
13 talking about financial documents.

14 And so we want to have the integrity  
15 of the Office of the Comptroller protected in the  
16 manner with your behavior. Your work behavior is  
17 going to show in your manner of conduct that should  
18 show that you're honest and that you have a sense of  
19 professionalism that is deserving of being in the  
20 Office of the Comptroller.

21 Q. Now, has your office since you have been  
22 in charge as the comptroller received awards for the  
23 work that you have done in terms of keeping the  
24 fiscal responsibilities, performance, and integrity  
25 of the City? What awards did you receive?

1 Q. Just for the record, Chana is an African  
2 American -- Chana Morton is an African American  
3 female; is that correct?

4 A. Yes.

5 Q. And what about you mentioned Bev  
6 Fitzsimmons, your deputy; did you do ratings for  
7 her?

8 A. No.

9 Q. Except --

10 A. Except for required ratings.

11 Q. And she is -- just for the record, what is  
12 her race?

13 A. She's white.

14 Q. What about Tyson Pruitt, did you do  
15 ratings for him?

16 A. No.

17 Q. And what is his race?

18 A. Except for the ones required.

19 Q. Okay. And what is his race, for the  
20 record?

21 A. He's white.

22 Q. Okay. Have you ever in all of your years  
23 as deputy comptroller -- as comptroller for the City  
24 of St. Louis, have you ever heard of a situation  
25 where important time sensitive deal documents were

1 placed in interoffice mail?

2 A. Not ever in my whole 27 years as  
3 comptroller of the City of St. Louis have I ever  
4 heard of time sensitive documents being placed in  
5 interoffice mail, not ever. And also I have to add  
6 to that neither has Tom Ray, who obviously knew that  
7 he needed to alert the Office of the Comptroller  
8 that this was happening at the time for these types  
9 of time sensitive documents.

10 Q. Okay. Now, you were shown Exhibit S,  
11 which is a memo you prepared to Jim regarding his  
12 attempt to have a St. Louis composting contract  
13 executed by Jim. Do you recall that discussion?

14 A. Yes.

15 Q. Okay. As you testified this wasn't the  
16 first time you had discussions with Jim about  
17 signature authority; is that correct?

18 A. That is correct.

19 Q. All right. In fact, you identified a  
20 situation that was at least a year prior where he  
21 apparently went around you and went to Tom Ray to  
22 get some advice about signing?

23 A. After I had verbally admonished him about  
24 signing. And I said admonish. It could be the same  
25 to inform or counsel. To let him know Beverly

1                   You wrote that to him, right?

2           A.     Yes, I did.

3           Q.     And when you said as you know, was that  
4     based upon the fact that you had had these  
5     discussions with him before?

6           A.     I had previous discussions with him.   So I  
7     knew that he knew.

8           Q.     Did he ever come to you and say, no, I  
9     didn't know?

10          A.     He never did.

11          Q.     And you go further and say:   As  
12     comptroller, I am authorized and I have also  
13     authorized Deputy Comptroller, Beverly Fitzsimmons.

14                   Right?

15          A.     Yes.

16          Q.     All right.   And you had told him that  
17     before, correct?

18          A.     Correct.

19          Q.     Years before?

20          A.     Correct.

21          Q.     All right.   When he received this memo,  
22     after he received this memo, after July 21, 2017,  
23     did Jim ever come to you and say, oh, by the way, I  
24     have already signed off on contracts for AT&T and  
25     for Waste Management?   Did he ever do that?



1           A.     He never did.

2           Q.     Would it be your expectation that he would  
3     come to you and tell you that?

4           A.     I would have expected that Jim would have  
5     performed with the professional behavior and come to  
6     me to tell me that he had signed other documents  
7     after he had received this memo from me, but he did  
8     not.

9           Q.     Okay. At the time you wrote this memo,  
10    did you know he had signed off on these other  
11    contracts?

12          A.     I did not know that until he -- I did not  
13    know at the time at all. I did not know until a  
14    year or two years later.

15          Q.     How did you find out about the fact that  
16    there were these contracts out there and that he had  
17    signed purportedly on behalf of the city?

18          A.     Once Jim decided to retire, other  
19    employees took time to perform his duties. And as  
20    they were doing their regular duties, performing  
21    their regular duties, they submitted a form. They  
22    submitted a voucher for payment for Waste Management  
23    and it was rejected. And it was rejected because  
24    there was no current contract on file.

25                   And so there couldn't be, because

1 they hadn't been being paid. So then the Waste  
2 Management company was contacted and they  
3 immediately sent us a contract that had been signed  
4 by Jim. It was a three-year extension that was  
5 signed by Jim. And so we submitted it or at least I  
6 was told that Judy Armstrong, not knowing any  
7 better, submitted to the contract administrator who  
8 knew better. She said this can't be. This is not  
9 legitimate.

10 Q. Okay.

11 A. So then she moved to take steps to get a  
12 legitimate three-month or four-month extension so  
13 that the Waste Management people could continue to  
14 be paid.

15 Q. And this discovery happened during the  
16 time he was on forced leave; is that right?

17 A. Yes. And this was within a few days. He  
18 was on forced leave as of July the 2nd. This  
19 discovery happened within less than seven days.

20 Q. Okay. Let me show you -- I want to go to  
21 Exhibit O. There was a reference to some letters  
22 dated July 15, 2019. So let's go to those.

23 Do you know if those letters were  
24 actually submitted to Mr. Frank and to  
25 Mr. Garavaglia on July 15, 2019?

1 approval?

2 A. It probably is Mr. Frank's approval.

3 Q. Okay. Let me close it out. Do you know  
4 if Judy Armstrong as the appointing authority would  
5 have also consulted with Director of Personnel and  
6 Linda Thomas in conjunction with the forced leave in  
7 this case?

8 A. Yes.

9 Q. Okay. Now, these deals that ultimately  
10 were completed on time, were they completed on time  
11 because there were guardrails in place in terms of  
12 professionals, outside professionals, like Opinsky  
13 and Tom Ray to make sure that they stayed on track?

14 A. Absolutely. That is correct. Those  
15 professionals, lawyers, bond lawyers, as well as  
16 investment bankers were very aware of the timeline  
17 and schedules. And they were there to help to make  
18 sure that these deals got done properly. Even Tom  
19 Ray would chime in, step in to make sure deals got  
20 done without any delay. That's how they got done  
21 without delay.

22 Q. When you found out about Tom Ray reaching  
23 out to Chana to alert her of the problem with the  
24 timing on getting these documents executed, did that  
25 jump out to you as being unusual?

1           A.     It was alarming to say the least. That he  
2     had to take the time. Because in his e-mail, he's  
3     also copying Jim. But he's directed it to the  
4     secretary of the comptroller letting us be alerted  
5     that we're going to have a problem, because Jim is  
6     basically not handling his job in a professional  
7     manner to get the documents circulated in a timely  
8     manner so there's a closing.

9                     He lets us know there's a closing.  
10    He lets us know documents are in interoffice mail,  
11    which is a mistake. He says to call him on the next  
12    day so he can be of help. Instead of calling him on  
13    the next day, I chose to call him on the same day,  
14    along with Jim, along with Sherry Wibbenmeyer in the  
15    mayor's office, my secretary and myself, the five of  
16    us was on that call. And I asked him did he have a  
17    plan for getting the documents executed in a timely  
18    manner.

19           Q.     And he was going to be on vacation the  
20    very following day; is that right?

21           A.     That is correct. And that is why I chose  
22    to call him that day, because I didn't know if I  
23    would be able to get in touch with him the next day.  
24    So if he had told me he had a plan in place to take  
25    care of the execution, then I would have been secure

1 in that. He did say that his secretary, Sheila,  
2 would be delivering the documents to my office the  
3 next morning.

4 That was after I asked him, could  
5 he -- I asked him where were the documents at that  
6 moment. He told me they were in the mail. My  
7 question was a leading question. And the leading  
8 question was in an attempt to see if Jim was going  
9 to offer to go get the documents out of the mail.  
10 And he did not.

11 Q. Are we talking about interoffice mail?

12 A. I'm talking about interoffice mail before  
13 the close of business at the City of St. Louis on  
14 the day before he was going on vacation.

15 Q. Okay.

16 A. Jim showed no urgency to have the  
17 documents ready for my signature in a timely manner.  
18 But he did in his deposition talk about that the  
19 documents needed review. So when I heard the  
20 deposition, I didn't understand how he was going to  
21 be reviewing the documents that came out of the mail  
22 on the day that he was driving out of town. Those  
23 things didn't register.

24 Q. All right.

25 A. He said that in his deposition. He was

1 going out of town on that call before the close of  
2 business. Before he left, those documents -- he  
3 made no attempt to take them out of the mail for a  
4 review that he talked about at his deposition.

5 Q. Okay. We talked about the Muni Court  
6 project.

7 MR. BLANKE: Let me interrupt you for a  
8 second. I want to object just for the record.  
9 I think we're over the seven hours now in  
10 total.

11 MR. NORWOOD: You have a seven-hour limit.  
12 I can use any of my seven hours. I am going to  
13 wrap it up.

14 Q. (By Mr. Norwood) But my question to you  
15 is -- let's talk about the Muni Court project. What  
16 is that? How many millions of dollars is involved  
17 and what project are we talking about when you say  
18 the Muni Court project?

19 A. We're talking about a project where the  
20 developers were going to redevelop the Muni Court  
21 into a hotel. And then that hotel would have also  
22 be redeveloped into a parking lot. And that would  
23 have took a building that is not in use right now  
24 and pull it into full effect and use and would not  
25 only create jobs, they were expecting there would be

1 anywhere between 60 to 70 jobs created, along with  
2 the revenues from the hotel taxes and sales taxes  
3 for that particular location right now, which is  
4 right now an unused building and boarded up.

5 Q. Okay. Let me close with this. And I'll  
6 ask you point blank. Did Mr. Garavaglia's age,  
7 race, or sex have anything to do with the steps you  
8 took as it related to the first, the second forced  
9 leave or pretermination?

10 A. Absolutely not, no. Absolutely not. Not  
11 at all.

12 MR. NORWOOD: All right. I have no  
13 further questions.

14 MR. BLANKE: Do you have anything else?

15 MR. SCHMITZ: No.

16 MR. NORWOOD: We'll read.

17 (Whereupon signature was  
18 reserved.)

19 (Off the record at 6:36 p.m.)  
20  
21  
22  
23  
24  
25